NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Department for Environmental Protection

Division of Water

(Amendment)

401 KAR 5:060. KPDES application requirements.

RELATES TO: KRS 224.01-010, 224.01-070, 224.01-400 [~~224.10-100, 224.16-050~~], 224.70-100, 224.70-120, 224.99-010 [~~224.70-110~~], 33 U.S.C. 1251 et seq., 1314, 1315(b), 1324(a), 1329(a), 1344, 1401 et seq. 42 U.S.C. 300h et seq., 6901 et seq., 6924(u), 6928(h),7412, 7470 to 7492, 7501 to 7515, 11023, 40 C.F.R. 35.2005(b)(20), 110.6, 117.21, 122, 123.35, 136, 261, 262.34, 302.6, 355, Chapter I, Subchapter N, Parts, 401 et seq..

STATUTORY AUTHORITY: KRS 224.10-100, 224.16-050, 224.70-110, 33 U.S.C. 1251 et seq., 1314, 1315(b), 1324(a), 1329(a), 1344, 1401 et seq. 42 U.S.C. 300h et seq., 6901 et seq., 6924(u), 6928(h),7412, 7470 to 7492, 7501 to 7515, 11023, 40 C.F.R. 35.2005(b)(20), 110.6, 117.21, 122, 123.35, 136, 261, 262.34, 302.6, 355, Chapter I, Subchapter N, Parts, 401 et seq..

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 authorizes the Natural Resources and Environmental Protection Cabinet to issue, continue in effect, revoke, modify, suspend or deny under such conditions as the cabinet may prescribe, permits to discharge into any waters of the Commonwealth. KRS 224.16-050 further empowers the cabinet to issue federal permits pursuant to 33 U.S.C. Section 1342(b) of the Federal Water Pollution Control Act, [~~(~~]33 U.S.C. Section 1251 et seq.[~~)~~] subject to the conditions imposed in 33 U.S.C., Sections

1342(b) and (d) and that any exemptions granted shall be pursuant to the Federal Water Pollution Control Act. This administrative regulation sets forth the application requirements for all KPDES permits and contains additional requirements for general and specific categories of dischargers.

Section 1. Applying for a KPDES Permit. (1) Application requirements. Any person who is required to have a permit, including new applicants and permittees with expiring permits, shall complete, sign, and submit an application to the cabinet as described in this administrative regulation and 401 KAR 5:055. On the date of KPDES program approval by EPA, all persons permitted or authorized under NPDES shall be deemed to hold a KPDES permit, including those expired permits which EPA has continued in effect according to 40 C.F.R. Section 122.6, continuation of expiring permits. For the purpose of this section, the cabinet shall accept the information required under subsection (7) of this section, for existing facilities, which has been submitted to EPA as part of a NPDES renewal. The applicant may be requested to update any information which is not current.

(2) Duty to apply. (a) Any person who discharges or proposes to discharge pollutants and who does not have an effective permit, except persons covered by general permits under 401 KAR 5:055, Section 5, excluded under 401 KAR 5:055, Section 1(2), or a user of a privately owned treatment works unless the cabinet requires otherwise under 401 KAR 5:065, Section 2(12), shall submit a complete application, which shall include a BMP program if necessary under 401 KAR 5:065, Section 2(10) to the cabinet in accordance with this section.

(b) The appropriate application forms for the various discharger types are given below. The forms are incorporated by reference in Section 14 of this administrative regulation.

DISCHARGE TYPE	APPLICATION FORMS
POTWs	1 and A

Concentrated animal feeding operations and aquatic animal production facilities	1 and B
Manufacturing, commercial, mining and silvicultural discharges with process wastewater	1 and C
Manufacturing, commercial, mining and silvicultural discharges with nonprocess wastewater only	1 and Short C
Industrial storm waterpoint source discharges	1 and F

(3) When a facility or activity is owned by one (1) person but is operated by another person, the operator shall obtain a permit.

(4) Time to apply. Any person proposing a new discharge, shall submit an application at least 180 days before the date on which the discharge is to commence, unless permission for a later date has been granted by the cabinet. Facilities proposing a new discharge of storm water associated with industrial activity shall submit an application 180 days before that facility commences industrial activity which may result in a discharge of storm water associated with that industrial activity. Facilities with storm water runoff from construction activities as defined in 401 KAR 5:002, Section 1 shall submit applications at least ninety (90) days before the date on which construction is to commence. Different submittal dates may be required under the terms of applicable general permits. Persons proposing a new discharge are encouraged to submit their applications well in advance of the ninety (90) or 180 day requirements to avoid delay. See also Section 12(2)(a)1.g. and (2)(a)2. [~~Storm water discharges associated with construction activity shall submit applications at least ninety (90) days before the date on which construction is to commence. Different submittal dates may be required under the terms of applicable general permits. Persons proposing a new discharge are encouraged to submit their~~

~~applications well in advance of the ninety- (90) or 180-day requirements to avoid delay.~~]

(5) Duty to reapply. (a) Any POTW with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the cabinet. The cabinet shall not grant permission for applications to be submitted later than the expiration date of the existing permit.

(b) All other permittees with currently effective permits shall submit a new application 180 days before the existing permit expires, except that the cabinet may grant permission to submit an application later than the deadline for submission otherwise applicable, but no later than the permit expiration date.

(c) Continuation of expiring permits.

1. The conditions of an expired permit continue in force until the effective date of a new permit if:

a. The permittee has submitted a timely application under subsection (2) of this section which is a complete application for a new permit; and

b. The cabinet, through no fault of the permittee, does not issue a new permit with an effective date under 401 KAR 5:075, Section 11, on or before the expiration date of the previous permit.

2. Effect. Permits continued under this paragraph remain fully effective and enforceable until the effective date of a new permit.

3. Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit the cabinet may do any of the following:

a. Initiate enforcement action based upon the permit which has been continued;

b. Issue a notice of intent to deny the new permit under 401 KAR 5:075, Section

3(2);

c. Issue a new permit under 401 KAR 5:075 with appropriate conditions; or

d. Take other actions authorized by KRS Chapter 224 and these administrative regulations.

(6) Completeness. The cabinet shall not issue a permit before receiving a complete application for a permit except for KPDES general permits. An application for a permit is complete when the cabinet receives an application form and any supplemental information which are completed to its satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity.

(7) Information requirements. All applicants for KPDES permits shall provide the following information to the cabinet, using the application form provided by the cabinet. Additional information required of applicants is set forth in Sections 2 through 5 of this administrative regulation.

(a) The activities conducted by the applicant which require it to obtain a KPDES permit.

(b) Name, mailing address, and location of the facility for which the application is submitted.

(c) Up to four (4) SIC codes which best reflect the principal products or services provided by the facility.

(d) The owner's or operator's name, address, telephone number, ownership status, and status as federal, state, private, public, or other entity.

(e) A listing of all existing environmental permits.

(f) A topographic map, or other map if a topographic map is unavailable, extending one (1) mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area.

(g) A brief description of the nature of the business.

(8) KPDES permit fees. As provided for in KRS 224.70-120, KPDES applications shall include a filing fee of twenty (20) percent of the total fee applicable to the following categories:

(a) Major industry;

(b) Minor industry;

(c) Nonprocess industry;

(d) Large, nonpublicly-owned treatment works;

(e) Intermediate, nonpublicly-owned treatment works;

(f) Small, nonpublicly-owned treatment works;

(g) Agriculture; and

(h) Surface mining operation.

Section 2. Application Requirements for Manufacturing, Commercial, Mining, and Silvicultural Dischargers. Manufacturing, commercial, mining, and silvicultural dischargers applying for KPDES permits, except for those facilities subject to the requirements of Section 3 of this administrative regulation, shall provide the following information to the cabinet, using the appropriate application forms as specified in Section 1 of this administrative regulation.

(1) Outfall location. The latitude and longitude to the nearest fifteen (15) seconds and the name of the receiving water.

(2) Line drawing. A line drawing of the water flow through the facility with a water balance, showing operations contributing wastewater to the effluent and treatment units. Similar processes, operations, or production areas may be indicated as a single unit, labeled to correspond to the more detailed identification under subsection (3) of this section. The water balance shall provide approximate average flows at intake and discharge points and between units, including treatment units. If a water balance cannot be determined (for example, for certain mining activities), the applicant may provide instead a pictorial description of the nature and amount of any sources of water and any collection and treatment measures.

(3) Average flows and treatment. A narrative identification of each type of process, operation, or production area which contributes wastewater to the effluent for each outfall, including process wastewater, cooling water, and storm water runoff; the average flow which each process contributes; and a description of the treatment the wastewater receives, including the ultimate disposal of any solid or fluid wastes other than by discharge. Processes, operations, or production areas may be described in general terms (for example, dye-making reactor or distillation tower). For a privately owned treatment works, this information shall include the identity of each user of the treatment works. The average flow of point sources composed of storm water may be estimated. The basis for the rainfall event and the method of estimation shall be indicated.

(4) Intermittent flows. If any of the discharges described in subsection (3) of this section are intermittent or seasonal, a description of the frequency, duration and flow rate of each discharge occurrence, except for storm water runoff, spillage or leaks.

(5) Maximum production. If an effluent guideline promulgated under Section 304 of CWA, 33 U.S.C. 1314 applies to the applicant and is expressed in terms of production or other measure of operation, a reasonable measure of the applicant's actual production reported in the units used in the applicable effluent guideline. The reported measure shall reflect the actual production of the facility as required by 401 KAR 5:065, Section 3(2).

(6) Improvements. If the applicant is subject to any present requirements or compliance schedules for construction, upgrading or operation of waste treatment equipment, an identification of the abatement requirement, a description of the abatement project, and a listing of the required and projected final compliance dates.

(7) Effluent characteristics. Information on the discharge of pollutants specified in this subsection, except information on storm water discharges which is to be provided as specified in Section 12 of this administrative regulation.

(a) When quantitative data for a pollutant are required, the applicant shall collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 C.F.R. Part 136. When no analytical method is approved the applicant may use any suitable method but shall provide a description of the method. When an applicant has two (2) or more outfalls with substantially identical effluents, the cabinet may allow the applicant to test only one (1) outfall and report that the quantitative data also apply to the substantially identical outfalls. The requirements in paragraphs (f) and (g) of this subsection that an applicant shall provide quantitative data for certain pollutants known to be present do not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant shall report these pollutants as present. Grab samples shall be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform and fecal

streptococcus. For all other pollutants, twenty-four (24) hour composite samples shall be used. However, a minimum of one (1) grab sample may be taken for effluents from holding ponds or other impoundments with a retention period greater than twenty-four (24) hours. In addition, for discharges other than storm water discharges, the cabinet may waive composite sampling for any outfall for which the applicant demonstrates that the use of an automatic sampler is not feasible and that the minimum of four (4) grab samples shall be a representative sample of the effluent being discharged. For storm water discharges, all samples shall be collected from the discharge resulting from a storm event that is greater than one-tenth (0.1) inch and at least seventy-two (72) hours from the previously measurable (greater than one-tenth (0.1) inch rainfall) storm event. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed fifty (50) percent from the average or median rainfall event in that area. For all applicants, a flow-weighted composite shall be taken for either the entire discharge or for the first three (3) hours of the discharge. The flow-weighted composite sample for a storm water discharge may be taken with a continuous sampler or as a combination of a minimum of three (3) sample aliquots taken in each hour of discharge for the entire discharge or for the first three (3) hours of the discharge, with each aliquot being separated by a minimum period of fifteen (15) minutes. Applicants submitting permit applications for storm water discharges under Section 12(3) of this administrative regulation may collect flow-weighted composite samples using different protocols with respect to the time duration between the collection of sample aliquots, subject to the approval of the cabinet. However, a minimum of one (1) grab sample may be taken for storm water discharges from holding ponds or other impoundments with a retention period greater than twenty-four (24) hours. For a flow-weighted composite sample, only one (1) analysis of the composite of aliquots is required. For storm water discharge samples taken from

discharges associated with industrial activities, quantitative data shall be reported for the grab sample taken during the first thirty (30) minutes, or as soon thereafter as practicable, of the discharge for all pollutants specified in Section 12(2)(a) of this administrative regulation. For all storm water permit applicants taking flow-weighted composites, quantitative data shall be reported for all pollutants specified in Section 12 of this administrative regulation except pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and fecal streptococcus. The cabinet may allow or establish appropriate site-specific sampling procedures or requirements, including sampling locations, the season in which the sampling takes place, the minimum duration between the previous measurable storm event and the storm event sampled, the minimum or maximum level of precipitation required for an appropriate storm event, the form of precipitation sampled (snow melt or rain fall), protocols for collecting samples under 40 C.F.R. Part 136, and additional time for submitting data on a case-by-case basis. An applicant knows or has reason to know that a pollutant is present in an effluent based on an evaluation of the expected use, production, or storage of the pollutant, or on any previous analyses for the pollutant. For example, any pesticide manufactured by a facility may be expected to be present in contaminated storm water runoff from the facility.

(b)1. Every applicant shall report quantitative data for every outfall for the following pollutants:

Biochemical oxygen demand (BOD)

Chemical oxygen demand

Total organic carbon

Total suspended solids

Ammonia, as N

Temperature both winter and summer

pH

2. The cabinet may waive the reporting requirements for individual point sources or for a particular industry category for one (1) or more of the pollutants listed in subparagraph 1 of this paragraph if the applicant has demonstrated that such a waiver is appropriate because information adequate to support issuance of a permit can be obtained with less stringent requirements.

(c) Each applicant with processes in one (1) or more of the following primary industry categories contributing to a discharge shall report quantitative data for the following pollutants in each outfall containing process wastewater:

1. Adhesives and sealants.

2. Aluminum forming.

3. Auto and other laundries.

4. Battery manufacturing.

5. Coal mining.

6. Coil coating.

7. Copper forming.

8. Electrical and electronic components.

9. Electroplating.

10. Explosives manufacturing.

11. Foundries.

12. Gum and wood chemicals.

13. Inorganic chemicals manufacturing.

14. Iron and steel manufacturing.

15. Leather tanning and finishing.

16. Mechanical products manufacturing.

17. Nonferrous metals manufacturing.

18. Ore mining.

19. Organic chemicals manufacturing.

20. Paint and ink formulation.

21. Pesticides.

22. Petroleum refining.

23. Pharmaceutical preparations.

24. Photographic equipment and supplies.

25. Plastics processing.

26. Plastic and synthetic materials manufacturing.

27. Porcelain enameling.

28. Printing and publishing.

29. Pulp and paper mills.

30. Rubber processing.

31. Soap and detergent manufacturing.

32. Steam electric power plants.

33. Textile mills.

34. Timber products processing.

(d) Analytical results for the organic toxic pollutants in the fractions designated in Section 8(1) of this administrative regulation for the applicant's industrial category or categories

shall be provided unless the applicant qualifies as a small business under subsection (8) of this section. Section 8(2) of this administrative regulation lists the organic toxic pollutants in each fraction. The fractions result from the sample preparation required by the analytical procedure which uses gas chromatography and mass spectrometry. A determination that an applicant falls within a particular industrial category for the purposes of selecting fractions for testing is not conclusive as to the applicant's inclusion in that category for any other purposes.

(e) Analytical results for the pollutants listed in Section 8(3) of this administrative regulation (the toxic metals, cyanide, and total phenols) shall be provided.

(f)1. Each applicant shall indicate whether it knows or has reason to know that any of the pollutants in Section 8(4) of this administrative regulation (certain conventional and nonconventional pollutants) is discharged from each outfall. If an applicable effluent limitations guideline either directly limits the pollutant or, by its express terms, indirectly limits the pollutant through limitations on an indicator, the applicant shall report quantitative data. For every pollutant discharged which is not so limited in an effluent limitations guideline, the applicant shall either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged.

2. Each applicant shall indicate whether it knows or has reason to know that any of the pollutants listed in Section 8(2) or (3) of this administrative regulation (the toxic pollutants and total phenols) for which quantitative data are not otherwise required under paragraph (b) of this subsection, is discharged from each outfall. For every pollutant expected to be discharged in concentrations of ten (10) ppb or greater the applicant shall report quantitative data. For acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4,6 dinitrophenol, where any of these four (4) pollutants are expected to be discharged in concentrations of 100 ppb or greater the applicant

shall report quantitative data. For every pollutant expected to be discharged in concentrations less than ten (10) ppb, or in the case of acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4,6 dinitrophenol, in concentrations less than 100 ppb, the applicant shall either submit quantitative data or briefly describe the reasons the pollutant is expected to be discharged. An applicant qualifying as a small business under subsection (8) of this section is not required to analyze for pollutants listed in Section 8(2) of this administrative regulation (the organic toxic pollutants).

(g) Each applicant shall indicate whether it knows or has reason to know that any of the pollutants in Section 8(5) of this administrative regulation (certain hazardous substances and asbestos) are discharged from each outfall. For every pollutant expected to be discharged, the applicant shall briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data it has for any pollutant.

(h) Each applicant shall report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) if it:

1. Uses or manufactures 2,4,5-trichlorophenoxy acetic acid (2,4,5,-T); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP); 2-(2,4,5-trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon); O,O-dimethyl O-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel); 2,4,5-trichlorophenol (TCP); or hexachlorophene (HCP); or

2. Knows or has reason to know that TCDD is or may be present in an effluent.

(8) Small business exemption. An applicant which qualifies as a small business under one (1) of the following criteria is exempt from the requirements in subsection (7)(b)1 or (7)(c)1 of this section to submit quantitative data for the pollutants listed in Section 8(2) of this administrative regulation (the organic toxic pollutants):

(a) For coal mines, a probable total annual production of less than 100,000 tons per year.

(b) For all other applicants, gross total annual sales averaging less than $100,000 per year (in second quarter 1980 dollars).

(9) Used or manufactured toxics. A listing of any toxic pollutant which the applicant currently uses or manufactures as an intermediate or final product or byproduct shall be provided. The cabinet may waive or modify this requirement for any applicant if the applicant demonstrates that it would be unduly burdensome to identify each toxic pollutant and the cabinet has adequate information to issue the permit.

(10) Biological toxicity tests. An identification of any biological toxicity tests which the applicant knows or has reason to know have been made within the last three (3) years on any of the applicant's discharges or on a receiving water in relation to a discharge shall be provided.

(11) Contract analyses. If a contract laboratory or consulting firm performed any of the analyses required by subsection (7) of this section, the identity of each laboratory or firm and the analyses performed shall be provided.

(12) Additional information. In addition to the information reported on the application form, applicants shall provide to the cabinet, at its request, such other information as the cabinet may reasonably require to assess the discharges of the facility and to determine whether to issue a KPDES permit. The additional information may include additional quantitative data and bioassays to assess the relative toxicity of discharges to aquatic life and requirements to determine the cause of the toxicity.

Section 3. Application Requirements for Manufacturing, Commercial, Mining and Silvicultural Facilities which Discharge Only Nonprocess Wastewater. Except for storm water

discharges, all manufacturing, commercial, mining and silvicultural dischargers applying for KPDES permits which discharge only nonprocess wastewater not regulated by an effluent limitations guideline or new source performance standard shall provide the following information to the cabinet, using application forms provided by the cabinet:

(1) Outfall location. Outfall number, latitude and longitude to the nearest fifteen (15) seconds, and the name of the receiving water.

(2) Discharge date for new dischargers. Date of expected commencement of discharge.

(3) Type of waste. An identification of the general type of waste discharged, or expected to be discharged upon commencement of operations, including sanitary wastes, restaurant or cafeteria wastes, or noncontact cooling water. An identification of cooling water additives, if any, that are used or expected to be used upon commencement of operations, along with their composition if existing composition is available.

(4) Effluent characteristics. (a) The applicant shall provide quantitative data for the pollutants or parameters listed below, unless testing is waived by the cabinet. The quantitative data may be data collected over the past 365 days, if they remain representative of current operations, and shall include maximum daily value, average daily value, and number of measurements taken. The applicant shall collect and analyze samples in accordance with 40 C.F.R. Part 136. Grab samples shall be used for pH, temperature, oil and grease, total residual chlorine, and fecal coliform. For all other pollutants, twenty-four (24) hour composite samples shall be used. New dischargers shall include estimates for the pollutants or parameters listed below instead of actual sampling data, along with the source of each estimate. All levels shall be reported or estimated as concentration and as total mass, except for flow, pH, and temperature.

1. Biochemical oxygen demand (BOD).

2. Total suspended solids (TSS).

3. Fecal coliform, if known to be present or if sanitary waste is or will be discharged.

4. Total residual chlorine, if chlorine is used.

5. Oil and grease.

6. Chemical oxygen demand (COD), if noncontact cooling water is or will be discharged.

7. Total organic carbon (TOC), if noncontact cooling water is or will be discharged.

8. Ammonia, as N.

9. Discharge Flow.

10. pH.

11. Temperature, winter and summer.

(b) The cabinet may waive the testing and reporting requirements for any of the pollutants or flow listed in paragraph (a) of this subsection if the applicant submits a request for such a waiver before or with the application which demonstrates that information adequate to support issuance of a permit can be obtained through less stringent requirements.

(c) The requirements of paragraph (a) of this subsection that an applicant shall provide quantitative data or estimates of certain pollutants do not apply to pollutants present in a discharge solely as a result of their presence in intake water. However, an applicant shall report these pollutants as present. Net credit may be provided for the presence of pollutants in intake water if the requirements of 401 KAR 5:065, Section 3(7) are met.

(5) Flow. A description of the frequency of flow and duration of any seasonal or intermittent discharge, except for storm water runoff, leaks, or spills.

(6) Treatment system. A brief description of any system used or to be used.

(7) Optional information. Any additional information the applicant wishes to be considered, such as influent data for the purpose of obtaining net credits pursuant to 401 KAR 5:065, Section 3(7).

(8) Certification. Signature of certifying official under Section 9 of this administrative regulation.

Section 4. Application Requirements for Concentrated Animal Feeding Operations and Aquatic Animal Production Facilities. Concentrated animal feeding operations and concentrated aquatic animal production facilities shall provide the following information to the cabinet, using the applicable application form provided by the cabinet:

(1) For concentrated animal feeding operations: (a) The type and number of animals in open confinement and housed under roof.

(b) The number of acres used for confinement feeding.

(c) The design basis for the runoff diversion and control system, if one [~~(1)~~] exists, including the number of acres of contributing drainage, the storage capacity, and the design safety factor.

(2) For concentrated aquatic animal production facilities: (a) The maximum daily and average monthly flow from each outfall.

(b) The number of ponds, raceways, and similar structures.

(c) The name of the receiving water and the source of intake water.

(d) For each species of aquatic animals, the total yearly and maximum harvestable weight.

(e) The calendar month of maximum feeding and the total mass of food fed during

that month.

Section 5. Application Requirements for New and Existing POTWs. Unless otherwise indicated, all POTWs and other dischargers designated by the cabinet shall provide, at a minimum, the information in this section to the cabinet, using KPDES Form A or another application form provided by the cabinet. Permit applicants shall submit all information available at the time of permit application. The information may be provided by referencing information previously submitted to the cabinet. The cabinet may waive any requirement of this paragraph if it has access to substantially identical information. The cabinet may also waive any requirement of this paragraph that is not of material concern for a specific permit, if approved by the Regional Administrator. The waiver request to the Regional Administrator shall include the cabinet's justification for the waiver. A Regional Administrator's disapproval of the cabinet's proposed waiver does not constitute final agency action, but does provide notice to the cabinet and permit applicant(s) that EPA may object to any cabinet-issued permit issued in the absence of the required information.

(1) Basic application information. All applicants shall provide the following information:

(a) Facility information. Name, mailing address, and location of the facility for which the application is submitted;

(b) Applicant information. Name, mailing address, and telephone number of the applicant, and an indication as to whether the applicant is the facility's owner, operator, or both;

(c) Existing environmental permits. Identification of all environmental permits or construction approvals received or applied for (including dates) under any of the following programs:

1. Hazardous Waste Management program under the Resource Conservation and Recovery Act (RCRA), Subpart C, 42 U.S.C. 6901 et seq.;

2. Underground Injection Control program under the Safe Drinking Water Act (SDWA),

42 U.S.C. 300(h) et seq.;

3. KPDES program pursuant to KRS Chapter 224;

4. Prevention of Significant Deterioration (PSD) program under the Clean Air Act, 42. U.S.C. 7470 to 7492;

5. Nonattainment program under the Clean Air Act, 42 U.S.C. 7501 to 7515;

6. National Emission Standards for Hazardous Air Pollutants (NESHAPS) preconstruction approval under the Clean Air Act, 42. U.S.C. 7412;

7. Ocean dumping permits under the Marine Protection Research and Sanctuaries Act, 33 U.S.C. 1401 et seq.;

8. Dredge or fill permits under section 404 of the CWA, 33 U.S.C. 1344; and

9. Other relevant environmental permits;

(d) Population. The name and population of each municipal entity served by the facility, including unincorporated connector districts. Indicate whether each municipal entity owns or maintains the collection system and whether the collection system is separate sanitary or combined storm and sanitary, if known;

(e) Flow rate. The facility's design flow rate (the wastewater flow rate the plant was built to handle), annual average daily flow rate, and maximum daily flow rate for each of the previous three (3) years;

(f) Collection system. Identification of types of collection systems used by the treatment works (i.e., separate sanitary sewers or combined storm and sanitary sewers) and an estimate of the percent of sewer line that each type comprises; and

(g) Outfalls and other discharge or disposal methods. The following information for outfalls to waters of the Commonwealth and other discharge or disposal methods:

1. For effluent discharges to waters of the Commonwealth, the total number and types of outfalls (e.g, treated effluent, combined sewer overflows, bypasses, constructed emergency overflows);

2. For wastewater discharged to surface impoundments:

a. The location of each surface impoundment;

b. The average daily volume discharged to each surface impoundment; and

c. Whether the discharge is continuous or intermittent;

3. For wastewater applied to the land:

a. The location of each land application site;

b. The size of each land application site, in acres;

c. The average daily volume applied to each land application site, in gallons per day; and

d. Whether land application is continuous or intermittent;

4. For effluent sent to another facility for treatment prior to discharge:

a. The means by which the effluent is transported;

b. The name, mailing address, contact person, and phone number of the organization transporting the discharge, if the transport is provided by a party other than the applicant;

c. The name, mailing address, contact person, phone number, and KPDES permit number, if any, of the receiving facility; and

d. The average daily flow rate from this facility into the receiving facility, in millions of gallons per day; and

5. For wastewater disposed of in a manner not included in subparagraphs 1 through 4 of this paragraph (e.g., underground percolation, underground injection):

a. A description of the disposal method, including the location and size of each disposal site, if applicable;

b. The annual average daily volume disposed of by this method, in gallons per day; and

c. Whether disposal through this method is continuous or intermittent;

(2) Additional Information. All applicants with a design flow greater than or equal to one-tenth (0.1) mgd shall provide the following information:

(a) Inflow and infiltration. The current average daily volume of inflow and infiltration, in gallons per day, and steps the facility is taking to minimize inflow and infiltration;

(b) Topographic map. A topographic map, or other map if a topographic map is unavailable, extending at least one (1) mile beyond property boundaries of the treatment plant, including all unit processes and showing:

1. Treatment plant area and unit processes;

2. The major pipes or other structures through which wastewater enters the treatment plant and the pipes or other structures through which treated wastewater is discharged from the treatment plant. Include outfalls from bypass piping, if applicable;

3. Each well where fluids from the treatment plant are injected underground;

4. Wells, springs, and other surface water bodies listed in public records or otherwise known to the applicant within one-quarter (1/4) mile of the property boundaries of the treatment plant;

5. Sewage sludge management facilities including on-site treatment, storage, and disposal sites; and

6. Location at which waste classified as hazardous under RCRA enters the treatment plant by truck, rail, or dedicated pipe;

(c) Process flow diagram or schematic.

1. A diagram showing the processes of the treatment plant, including all bypass piping and all backup power sources or redundancy in the system. This includes a water balance showing all

treatment units, including disinfection, and showing daily average flow rates at influent and discharge points, and approximate daily flow rates between treatment units; and

2. A narrative description of the diagram; and

(d) Scheduled improvements, schedules of implementation. The following information regarding scheduled improvements:

1. The outfall number of each outfall affected;

2. A narrative description of each required improvement;

3. Scheduled or actual dates of completion for the following:

a. Commencement of construction;

b. Completion of construction;

c. Commencement of discharge; and

d. Attainment of operational level;

4. A description of permits and clearances concerning other Federal and State requirements;

(3) Information on effluent discharges. Each applicant shall provide the following information for each outfall, including bypass points, through which effluent is discharged, as applicable:

(a) Description of outfall. The following information about each outfall:

1. Outfall number;

2. State, county, and city or town in which outfall is located;

3. Latitude and longitude, to the nearest second;

4. Distance from shore and depth below surface;

5 Daily flow rate, in million gallons per day;

6. The following information for each outfall with a seasonal or periodic discharge:

a. Number of times per year the discharge occurs;

b. Duration of each discharge;

c. Flow of each discharge;

d. Months in which discharge occurs; and

7. Whether the outfall is equipped with a diffuser and the type (e.g., high-rate) of diffuser used;

(b) Description of receiving waters. The following information, if known, for each outfall through which effluent is discharged to waters of the Commonwealth:

1. Name of receiving water;

2. Name of watershed or river or stream system and the United States Soil Conservation Service 14-digit watershed code;

3. Name of the State Management River Basin and United States Geological Survey 8-digit hydrologic cataloging unit code; and

4. Critical flow of receiving stream and total hardness of receiving stream at critical low flow (if applicable);

(c) Description of treatment. The following information describing the treatment provided for discharges from each outfall to waters of the Commonwealth:

1. The highest level of treatment (e.g., primary, equivalent to secondary, secondary, advanced, other) that is provided for the discharge for each outfall and:

a. Design biochemical oxygen demand (BOD5 or CBOD5) removal percent;

b. Design suspended solids (SS) removal percent; and, where applicable,

c. Design phosphorus (P) removal percent;

d. Design nitrogen (N) removal percent; and

e. Any other removals that an advanced treatment system is designed to achieve.

2. A description of the type of disinfection used, and whether the treatment plant dechlorinates if disinfection is accomplished through chlorination;

(4) Effluent monitoring for specific parameters. (a) As provided in paragraphs (4)(b) through (j) of this section, all applicants shall submit to the cabinet effluent monitoring information for samples taken from each outfall through which effluent is discharged to waters of the Commonwealth, except for CSOs. The cabinet may allow applicants to submit sampling data for only one (1) outfall on a case-by-case basis, where the applicant has two or more outfalls with substantially identical effluent. The cabinet may also allow applicants to composite samples from one (1) or more outfalls that discharge into the same mixing zone;

(b) All applicants shall sample and analyze for the pollutants listed in Section 8 (6), Table VI of this administrative regulation;

(c) All applicants with a design flow greater than or equal to one-tenth (0.1) of one mgd shall sample and analyze for the pollutants listed in Section 8(7), Table VII of this part. Facilities that do not use chlorine for disinfection, do not use chlorine elsewhere in the treatment process, and have no reasonable potential to discharge chlorine in their effluent may delete chlorine from Table VII;

(d) The following applicants shall sample and analyze for the pollutants listed in Section 8(8), Table VIII of this part, and for any other pollutants for which the cabinet or EPA have established water quality standards applicable to the receiving waters:

1. All POTWs with a design flow rate equal to or greater than 1,000,000 gallons per day;

2. All POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program;

3. Other POTWs, as required by the cabinet;

(e) The cabinet may require sampling for additional pollutants, as appropriate, on a case-by-case basis;

(f) Applicants shall provide data from a minimum of three (3) samples taken within four and one-half (4 ½) years prior to the date of the permit application. Samples shall be representative of the seasonal variation in the discharge from each outfall. Existing data may be used, if available, in lieu of sampling done solely for the purpose of this application. The cabinet shall require additional samples, as appropriate, on a case-by-case basis.

(g) All existing data for pollutants specified in paragraphs (4)(b) through (e) of this section that is collected within four and one-half (4 ½) years of the application shall be included in the pollutant data summary submitted by the applicant. If the applicant samples for a specific pollutant on a monthly or more frequent basis, it is only necessary to summarize all data collected within one (1) year of the application for the pollutant.

(h) Applicants shall collect samples of effluent and analyze the samples for pollutants in accordance with analytical methods approved under 40 C.F.R. part 136 unless an alternative is specified in the existing KPDES permit. Grab samples shall be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, and fecal coliform. For all other pollutants, twenty-four (24) hour composite samples shall be used. For a composite sample, only one (1) analysis of the composite of aliquots is required.

(i) The effluent monitoring data provided shall include at least the following information for each parameter:

1. Maximum daily discharge, expressed as concentration or mass, based upon actual sample values;

2. Average daily discharge for all samples, expressed as concentration or mass, and the number of samples used to obtain this value;

3. The analytical method used; and

4. The threshold level (i.e., method detection limit, minimum level, or other designated method endpoints) for the analytical method used.

(j) Unless otherwise required by the cabinet, metals shall be reported as total recoverable.

(5) Effluent monitoring for whole effluent toxicity. (a) All applicants shall provide an identification of any whole effluent toxicity tests conducted during the four and one-half (4 ½) years prior to the date of the application on any of the applicant's discharges or on any receiving water near the discharge.

(b) As provided in paragraphs (5)(c)-(i) of this section, the following applicants shall submit to the Cabinet the results of valid whole effluent toxicity tests for acute or chronic toxicity for samples taken from each outfall through which effluent is discharged to surface waters, except for combined sewer overflows:

1. All POTWs with design flow rates greater than or equal to 1,000,000 gallons per day;

2. All POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program;

3. Other POTWs, as required by the cabinet, based on consideration of the following factors:

a. The variability of the pollutants or pollutant parameters in the POTW effluent based on chemical-specific information, the type of treatment plant, and types of industrial contributors;

b. The ratio of effluent flow to receiving stream flow;

c. Existing controls on point or non-point sources, including total maximum daily load

calculations for the receiving stream segment and the relative contribution of the POTW;

d. Receiving stream characteristics, including possible or known water quality impairment, and whether the POTW discharges to a water designated as an outstanding state resource water; or

e. Other considerations, including but not limited to the history of toxic impacts and compliance problems at the POTW, that the cabinet determines could cause or contribute to adverse water quality impacts.

(c) Where the POTW has two (2) or more outfalls with substantially identical effluent discharging to the same receiving stream segment, the cabinet may allow applicants to submit whole effluent toxicity data for only one (1) outfall on a case-by-case basis. The cabinet may also allow applicants to composite samples from one (1) or more outfalls that discharge into the same mixing zone.

(d) Each applicant required to perform whole effluent toxicity testing pursuant to paragraph (5)(b) of this section shall provide:

1. Results of a minimum of four (4) quarterly tests for a year, from the year preceding the permit application; or

2. Results from four (4) tests performed at least annually in the four and one-half (4 ½) year period prior to the application, provided the results show no appreciable toxicity using a safety factor determined by the cabinet.

(e) Applicants shall conduct tests with no less than two (2) species of fish, invertebrates, plants, etc., and test for acute or chronic toxicity, depending on the range of receiving water dilution. The applicant shall conduct acute or chronic testing based on the following dilutions:

1. Acute toxicity testing if the dilution of the effluent is greater than 1000:1 at the edge of the mixing zone;

2. Acute or chronic toxicity testing if the dilution of the effluent is between 100:1 and 1000:1 at the edge of the mixing zone. Acute testing may be more appropriate at the higher end of this range (1000:1), and chronic testing may be more appropriate at the lower end of this range (100:1); and

3. Chronic testing if the dilution of the effluent is less than 100:1 at the edge of the mixing zone.

(f) Each applicant required to perform whole effluent toxicity testing pursuant to paragraph (5)(b) of this section shall provide the number of chronic or acute whole effluent toxicity tests that have been conducted since the last permit reissuance.

(g) Applicants shall provide the results using the form provided by the cabinet, or test summaries if available and comprehensive, for each whole effluent toxicity test conducted pursuant to paragraph (5)(b) of this section for which such information has not been reported previously to the cabinet.

(h) Whole effluent toxicity testing conducted pursuant to paragraph (5)(b) of this section shall be conducted using methods approved under 40 C.F.R. part 136.

(i) For whole effluent toxicity data submitted to the cabinet within four and one-half (4 ½) years prior to the date of the application, applicants shall provide the dates on which the data were submitted and a summary of the results.

(j) Each POTW required to perform whole effluent toxicity testing pursuant to paragraph (5)(b) of this section shall provide any information on the cause of toxicity and written details of any toxicity reduction evaluation conducted, if any whole effluent toxicity test conducted within the past four and one-half (4 ½) years revealed toxicity.

(6) Industrial discharges. Applicants shall submit the following information about industrial discharges to the POTW:

(a) Number of significant industrial users (SIUs) and categorical industrial users (CIUs) discharging to the POTW; and

(b) POTWs with one (1) or more SIUs shall provide the following information for each SIU, as defined at 401 KAR 5:002 Section 1, that discharges to the POTW:

1. Name and mailing address;

2. Description of all industrial processes that affect or contribute to the SIU discharge;

3. Principal products and raw materials of the SIU that affect or contribute to the SIU discharge;

4. Average daily volume of wastewater discharged, indicating the amount attributable to process flow and non-process flow;

5. Whether the SIU is subject to local limits;

6. Whether the SIU is subject to categorical standards, and if so, under which categories and subcategories; and

7. Whether any problems at the POTW (e.g., upsets, pass through, interference) have been attributed to the SIU in the past four and one-half (4 ½) years.

(c) The information required in paragraphs (6)(a) and (b) of this section may be waived by the cabinet for POTWs with pretreatment programs if the applicant has submitted either of the following that contain information substantially identical to that required in paragraphs (6)(a) and (b) of this section.

1. An annual report submitted within one (1) year of the application; or

2. A pretreatment program;

(d) POTWs with approved pretreatment programs shall provide a written technical evaluation of the need to revise local limits in accordance with 401 KAR 5:057.

(7) Discharges from hazardous waste generators and from waste cleanup or remediation sites. POTWs receiving Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901 et seq., Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 6901 et seq., or RCRA Corrective Action wastes or wastes generated at another type of cleanup or remediation site shall provide the following information:

(a) If the POTW receives, or has been notified that it will receive, by truck, rail, or dedicated pipe any wastes that are regulated as RCRA hazardous wastes pursuant to 40 C.F.R. part 261, the applicant shall report the following:

1. The method by which the waste is received, and

2. The hazardous waste number and amount received annually of each hazardous waste;

(b) If the POTW receives, or has been notified that it will receive, wastewaters that originate from remedial activities, including those undertaken pursuant to CERCLA and sections 3004(u) or 3008(h) of RCRA, 42 U.S.C. 6924(u) and 6928(h), the applicant shall report the following:

1. The identity and description of the sites or facilities at which the wastewater originates;

2. The identities of the wastewater's hazardous constituents, if known; and

3. The extent of treatment, if any, the wastewater receives or will receive before entering the POTW;

(c) Applicants are exempt from the requirements of paragraph (7)(b) of this section if they receive no more than fifteen (15) kilograms per month of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 C.F.R. 261.30(d) and 261.33(e).

(8) Combined sewer overflows (CSO). Each applicant with combined sewer systems shall provide the following information:

(a) Combined sewer system information. The following information regarding the

combined sewer system:

1. System map. A map indicating the location of the following:

a. All CSO discharge points;

b. Sensitive use areas potentially affected by CSOs (e.g., beaches, drinking water supplies, shellfish beds, sensitive aquatic ecosystems, and outstanding state resource waters); and

c. Waters supporting threatened and endangered species potentially affected by CSOs; and

2. System diagram. A diagram of the combined sewer collection system that includes the following information:

a. The location of major sewer trunk lines, both combined and separate sanitary;

b. The locations of points where separate sanitary sewers feed into the combined sewer system;

c. In-line and off-line storage structures;

d. The locations of flow-regulating devices; and

e. The locations of pump stations.

(b) Information on CSO outfalls. The following information for each CSO discharge point covered by the permit application:

1. Description of outfall. The following information on each outfall:

a. Outfall number;

b. State, county, and city or town in which outfall is located;

c. Latitude and longitude, to the nearest second; and

d. Distance from shore and depth below surface;

e. Whether the applicant monitored any of the following in the past year for this CSO:

(i) Rainfall;

(ii) CSO flow volume;

(iii) CSO pollutant concentrations;

(iv) Receiving water quality;

(v) CSO frequency; and

f. The number of storm events monitored in the past year;

2. CSO events. The following information about CSO overflows from each outfall:

a. The number of events in the past year;

b. The average duration per event, if available;

c. The average volume per CSO event, if available; and

d. The minimum rainfall that caused a CSO event, if available, in the last year;

3. Description of receiving waters. The following information about receiving waters:

a. Name of receiving water;

b. Name of watershed or stream system and the United States Soil Conservation Service watershed 14-digit code if known; and

c. Name of State Management River Basin and the United States Geological Survey hydrologic cataloging unit 8-digit code if known; and

4. CSO operations. A description of any known water quality impacts on the receiving water caused by the CSO including permanent or intermittent beach closings, permanent or intermittent shellfish bed closings, fish kills, fish advisories, other recreational loss, or exceedance of any applicable water quality standard;

(9) Contractors. All applicants shall provide the name, mailing address, telephone number, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility; and

(10) Signature. All applications shall be signed by a certifying official in compliance with Section 9 of this regulation.

~~[(1) The following POTWs shall provide the results of valid whole effluent biological toxicity testing to the cabinet:~~

~~(a) All POTWs with design influent flows equal to or greater than 1,000,000 gallons per day; and~~

~~(b) All POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program;~~

~~(2) In addition to the POTWs listed in subsection (1) of this section, the cabinet may require other POTWs to submit the results of toxicity tests with their permit applications, based on consideration of the following factors:~~

~~(a) The variability of the pollutants or pollutant parameters in the POTW effluent based on chemical-specific information, the type of treatment facility, and types of industrial contributors;~~

~~(b) The seven (7) day, ten (10) year ($7Q_{10}$) low flow value of the receiving stream;~~

~~(c) Existing controls on point or nonpoint sources, including total maximum daily load calculations for the waterbody segment and the relative contribution of the POTW;~~

~~(d) Receiving stream characteristics, including possible or known water quality impairment, and whether the POTW discharges to a water designated as an outstanding natural resource; or~~

~~(e) Other considerations, including but not limited to the history of toxic impact and compliance problems at the POTW, which the cabinet determines could cause or contribute to adverse water quality impacts.~~

~~(3) For POTWs required under subsection (1) or (2) of this section to conduct toxicity testing, POTWs shall use EPA's methods or other established protocols which are scientifically defensible and sufficiently sensitive to detect aquatic toxicity. This testing shall have been conducted since the last KPDES permit reissuance or permit modification under 401 KAR 5:070, Section 6, whichever occurred later.~~

~~(4) All POTWs with approved pretreatment programs shall provide a written technical evaluation of the need to revise local limits under 401 KAR 5:057.~~]

Section 6. Recordkeeping. Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under this section for a period of at least three (3) years from the date the application is signed.

Section 7. Service of Process. Every applicant and permittee shall provide the cabinet an address for receipt of any legal document for service of process. The last address provided to the cabinet pursuant to this provision shall be the address at which the cabinet may tender any legal notice including but not limited to service of process in connection with any enforcement action.

Section 8. KPDES Application Testing Requirements.

(1) Table I[~~.~~] –Gas Chromatography/Mass Spectroscopy (GC-MS) fractions per Industrial Category

Industrial category	GC-MS Fraction*			
	Volatile	Acid	Neutral	Pesticide
Adhesives & sealants	(1)	(1)	(1)	
Aluminum forming	(1)	(1)	(1)	
Auto & other laundries	(1)	(1)	(1)	(1)
Battery manufacturing	(1)		(1)	

Industrial category	GC-MS Fraction*			
	Volatile	Acid	Neutral	Pesticide
Coal mining	(1)	(1)	(1)	(1)
Coil Coating	(1)	(1)	(1)	
Copper forming	(1)	(1)	(1)	
Electric & electronic compounds	(1)	(1)	(1)	(1)
Electroplating	(1)	(1)	(1)	
Explosives manufacturing		(1)	(1)	
Foundries	(1)	(1)	(1)	
Gum & Wood	(1)	(1)	(1)	(1)
Inorganic chemicals manufacturing	(1)	(1)	(1)	
Iron & steel manufacturing	(1)	(1)	(1)	
Leather tanning & finishing	(1)	(1)	(1)	(1)
Mechanical products manufacturing	(1)	(1)	(1)	
Nonferrous metals manufacturing	(1)	(1)	(1)	(1)
Ore mining	(1)	(1)	(1)	(1)
Organic chemicals manufacturing	(1)	(1)	(1)	(1)
Paint & ink formulation	(1)	(1)	(1)	(1)
Pesticides	(1)	(1)	(1)	(1)
Petroleum refining	(1)	(1)	(1)	(1)
Pharmaceutical preparations	(1)	(1)	(1)	
Photographic equipment & supplies	(1)	(1)	(1)	(1)
Plastic & synthetic materials	(1)	(1)	(1)	(1)

Industrial category	GC-MS Fraction*			
	Volatile	Acid	Neutral	Pesticide
manufacturing				
Plastic processing	(1)			
Porcelain enameling	(1)		(1)	(1)
Printing & publishing	(1)	(1)	(1)	(1)
Pulp & paperboard mills	(1)	(1)	(1)	(1)
Rubber processing	(1)	(1)	(1)	
Soap & detergent manufacturing	(1)	(1)	(1)	
Steam electric power plants	(1)	(1)	(1)	
Textile mills	(1)	(1)	(1)	(1)
Timber products processing	(1)	(1)	(1)	(1)

[1] Testing required

[*] Pollutants listed in Table II

(2) Table II-Organic Toxic Pollutants in Each of Four (4) Fractions in Analysis by Gas Chromatography/Mass Spectroscopy (GC-MS)

Volatiles	Acid Compounds	Base/Neutral	Pesticides
1V acrolein	1A 2-chlorophenol	1B acenaphthene	1P aldrin
2V acrylonitrile	2A 2,4-dichloro-phenol	2B acenaphthylene	2P alpha-BHC
3V benzene	3A 2,4-di-methyl-phenol	3B anthracene	3P beta-BHC
5V bromoform	4A 4,6-dinitro-o-cresol	4B benzidine	4P gamma-BHC
6V carbon tetrachloride	5A 2,4-dinitro-phenol	5B benzo(a)anthracene	5P delta-BHC
7V chlorobenzene		6B benzo(a)pyrene	6P chlordane
8V chlorodibromo-methane		7B 3,4-benzofluor-anthene	7P 4,4'-DDT
9V chloroethane		8B benzo(ghi)perylene	8P 4,4'-DDE
		9B benzo(k)fluoranthene	9P 4,4'-DDD
			10P dieldrin

Volatiles	Acid Compounds	Base/Neutral	Pesticides
10V 2-chloroethyl-vinyl ether 11V chloroform 12V dichlorobromo-methane 14V 1,1-dichloroethane 15V 1,2-dichloroethane 16V 1,1-dichloroethylene 17V 1,2-dichloropropane 18V 1,3-dichloro-propylene 19V ethylbenzene 20V methyl bromide 21V methyl chloride 22V methylene chloride 23V 1,1,2,2-tetra-chloroethane 24V tetrachloroethyl ene 25V toluene 26V 1,2-trans-dichloroethylene 27V 1,1,1-trichloro-ethane 28V 1,1,2-trichloro-ethane 29V trichloroethyl-ene 31V vinyl chloride	6A 2-nitro-phenol 7A 4-nitro-phenol 8A p-chloro-m-cresol 9A pentachloro phenol 10A phenol 11A 2,4,6-tri-chlorophenol	10B bis(2-chloroeth-oxy)methane 11B bis(2-chloroiso-propyl)ether 12B bis(2-ethyl-hexyl)phthalate 13B 4-bromophenyl phe-nyl ether 14B butylbenzyl phthalate 15B 2-chloronaphthalene 16B 4-chlorophenyl phe-nyl ether 17B chrysene 18B dibenzo(a,h)-anthracene 19B 1,2-dichlorobenzene 20B 1,3-dichlorobenzene 21B 1,4-dichlorobenzene 22B 3,3'-dichloro-benzidine 23B diethyl phthalate 24B dimethyl phthalate 25B di-n-butyl phthalate 26B 2,4-dinitrotoluene 27B 2,6-dinitrotoluene 28B di-n-octyl phthalate 29B 1,2-diphenylhydrazine (as azonbenzene) 30B flururanthene 31B fluorene 32B hexachlorobenzene 33B hexachlorobutadiene 34B hexachlorocyclopenta diene 35B hexachloroethane 36B indneo(1,2,3-cd)pyrene 37B isophorone 38B napthalene 39B nitrobenzene 40B N-	11P alpha-endosulfan 12P beta-endosulfan 13P endosulfan sulfate 14P endrin 15P endrin alde-hyde 16P heptachlor 17P heptachlor epoxide 18P PCB-1242 19P PCB-1254 20P PCB-1221 21P PCB-1232 22P PCB-1248 23P PCB-1260 24P PCB-1016 25P toxaphene

Volatiles	Acid Compounds	Base/Neutral	Pesticides
		nitrosodimethylamine 41B N-nitrosodi-n-propylamine 42B N-nitrosodiphenylamine 43B phenanthrene 44B pyrene 45B 1,2,4-trichlorobenzene	

(3) Table III-Other Toxic Pollutants (Metals and Cyanide) and Total Phenols

Antimony, Total
Arsenic, Total
Beryllium, Total
Cadmium, Total
Chromium, Total
Copper, Total
Lead, Total
Mercury, Total
Nickel, Total
Selenium, Total
Silver, Total
Thallium, Total
Zinc, Total
Cyanide, Total
Phenols, Total

(4) Table IV-Conventional and Nonconventional Pollutants Required to Be Tested by Existing Dischargers if Expected to be present

Bromide
Chlorine, Total Residual
Color
Fecal Coliform
Fluoride
Nitrate-Nitrite
Nitrogen, Total Organic
Oil and Grease
Phosphorus, Total
Radioactivity
Sulfate
Sulfide

Sulfite
Surfactants
Aluminum, Total
Barium, Total
Boron, Total
Cobalt, Total
Iron, Total
Magnesium, Total
Molybdenum, Total
Manganese, Total
Tin, Total
Titanium, Total

(5) Table V-Toxic Pollutants and Hazardous Substances Required To Be Identified by Existing Dischargers if Expected To Be Present

Toxic Pollutants	Hazardous Substances	Hazardous Substances, continued
Asbestos	Acetaldehyde	Malathion
	Allyl alcohol	Mercaptodimethur
	Allyl chloride	Methoxychlor
	Amyl acetate	Methyl mercaptan
	Aniline	Methyl methacrylate
	Benzonitrile	Methyl parathion
	Benzyl chloride	Mevinphos
	Butyl acetate	Mexacarbate
	Butylamine	Monoethyl amine
	Captan	Monomethyl amine
	Carbaryl	Naled
	Carbofuran	Napthenic acid
	Carbon disulfide	Nitrotoluene
	Chlorpyrifos	Parathion
	Coumaphos	Phenolsulfanate
	Cresol	Phosgene
	Crotonaldehyde	Propargite
	Cyclohexane	Propylene oxide
	2,4-D (2,4-Dichlorophenoxy acetic acid)	Pyrethrins
		Quinoline
	Diazinon	Resorcinol
	Dicamba	Strontium
	Dichlobenil	Strychnine
	Dichlone	Styrene
	2,2-Dichloropropionic acid	2,4,5-T (2,4,5-Trichlorophenoxy acetic acid)
	Dichlorvos	
	Diethyl amine	TDE (Tetrachlorodiphenylethane)
	Dimethyl amine	2,4,5-TP(2-2,4,5-Trichlorophenoxy)

	Dintrobenzene Diquat Disultoton Diuron Epichlorohydrin Ethion Ehtylene diamine Ethylene dibromide Formaldehyde Furfural Guthion Isoprene Isopropanolamine Dodecylbenzenesulfonate Kelthane Kepone	propanoic acid Trichlorofan Triethanolamine dodecylbenzene sulfonate Triethylamine

(6) Table VI-Effluent Parameters for All POTWs

Biochemical oxygen demand (BOD-5 or CBOD-5)
Fecal coliform
Design Flow Rate
PH
Temperature
Total suspended solids

(7) Table VII-Effluent Parameters for All POTWS With a Flow Equal to or Greater Than 0.1 MGD

Ammonia (as N)
Chlorine (total residual, TRC)
Dissolved oxygen
Nitrate/Nitrite
Kjeldahl nitrogen

Oil and grease Phosphorus Total dissolved solids

(8) Table VIII-Effluent Parameters for Selected POTWs

Volatile Organic Compounds	Acid Extractable Compounds	Base/Neutral Compounds	Metals (total recoverable), cyanide and total phenols
Acrolein Acrylonitrile Benzene Bromoform Carbon tetrachloride Chlorobenzene Chlorodibromomethane Chloroethane 2-chloroethylvinyl ether Chloroform Dichlorobromomethane 1,1-dichloroethane 1,2-dichloroethane Trans-1,2-dichloroethylene 1,1-dichloroethylene 1,2-dichloropropane 1,3-dichloropropylene Ethylbenzene Methyl bromide Methyl chloride Methylene chloride 1,1,2,2-tetrachloroethane Tetrachloroethylene Toluene 1,1,1-trichloroethane 1,1,2-trichloroethane Trichloroethylene Vinyl chloride	P-chloro-m-creso 2-chlorophenol 2,4-dichlorophenol 2,4-dimethylphenol 4,6-dinitro-o-cresol 2,4-dinitrophenol 2-nitrophenol 4-nitrophenol Pentachlorophenol Phenol 2,4,6-trichlorophenol	Acenaphthene Acenaphthylene Anthracene Benzidine Benzo(a)anthracene Benzo(a)pyrene 3,4 benzofluoranthene Benzo(ghi)perylene Benzo(k)fluoranthene Bis (2-chloroethoxy) methane Bis (2-chloroethyl) ether Bis (2-chloroisopropyl) ether Bis (2-ethylhexyl) phthalate 4-bromophenyl phenyl ether Butyl benzyl phthalate 2-chloronaphthalene 4-chlorophenyl phenyl ether Chrysene Di-n-butyl phthalate Di-n-octyl phthalate Dibenzo(a,h)anthracene 1,2-dichlorobenzene 1,3-dichlorobenzene 1,4-dichlorobenzene 3,3-dichlorobenzidine Diethyl phthalate Dimethyl phthalate 2,4-dinitrotoluene 2,6-dinitrotoluene 1,2-diphenylhydrazine Fluoranthene Fluorene Hexachlorobenzene	Hardness Antimony Arsenic Beryllium Cadmium Chromium Copper Lead Mercury Nickel Selenium Silver Thallium Zinc Cyanide Total phenolic compounds

Volatile Organic Compounds	Acid Extractable Compounds	Base/Neutral Compounds	Metals (total recoverable), cyanide and total phenols
		Hexachlorobutadiene Hexachlorocyclo-pentadiene Hexachloroethane Indeno(1,2,3-cd)pyrene Isophorone Naphthalene Nitrobenzene N-nitrosodi-n-propylamine N-nitrosodimethylamine N-nitrosodiphenylamine Phenanthrene Pyrene 1,2,4,-trichlorobenzene	

Section 9. Signatories to Permit Applications and Reports. (1) Applications. All permit applications shall be signed as follows:

(a) For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer is:

1. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or

2. The manager of one (1) or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where [~~employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second-quarter 1980 dollars), if~~] authority to

sign documents has been assigned or delegated to the manager in accordance with corporate procedures. [~~A copy of that authority shall be provided to the cabinet.~~]

(b) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

(c) For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a federal agency includes:

1. The chief executive officer of the agency; or

2. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., regional administrators of EPA).

(2) All reports required by permits, and other information requested by the cabinet shall be signed by a person described in subsection (1) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(a) The authorization is made in writing by a person described in subsection (1) of this section;

(b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

(c) The written authorization is submitted to the cabinet.

(3) Changes to authorization. If an authorization under subsection (2) of this section

is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of subsection (2) of this section shall be submitted to the cabinet prior to or together with any reports, information, or applications to be signed by an authorized representative.

(4) Certification. Any person signing a document under subsections (1) or (2) of this section shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Section 10. Concentrated Animal Feeding Operations. (1) Permit requirement. Concentrated animal feeding operations are point sources subject to the KPDES permit program.

(2) Case-by-case designation of concentrated animal feeding operations. (a) The cabinet may designate any animal feeding operation as a concentrated animal feeding operation upon determining that it is a significant contributor of pollution to the waters of the Commonwealth. In making this designation the cabinet shall consider the following factors:

1. The size of the animal feeding operation and the amount of wastes reaching waters of the Commonwealth;

2. The location of the animal feeding operation relative to waters of the Commonwealth;

3. The means of conveyance of animal wastes and process waste waters into waters of the Commonwealth;

4. The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes and process waste waters into waters of the Commonwealth; and

5. Other relevant factors.

(b) No animal feeding operation with less than the numbers of animals defined in 401 KAR 5:002[~~5:001~~] shall be designated as a concentrated animal feeding operation unless:

1. Pollutants are discharged into waters of the Commonwealth through a manmade ditch, flushing system, or other similar manmade device; or

2. Pollutants are discharged directly into waters of the Commonwealth which originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals or their wastes confined in the operation.

(c) A permit application shall not be required from a concentrated animal feeding operation designated under this subsection until the cabinet has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program.

Section 11. Concentrated Aquatic Animal Production Facilities. (1) Permit requirement. Concentrated aquatic animal production facilities, as set forth in this section, are point sources subject to the KPDES permit program.

(2) A hatchery, fish farm, or other facility is a concentrated aquatic animal production facility for purposes of this section if it contains, grows, or holds aquatic animals in either of the following categories:

(a) Cold water fish species or other cold water aquatic animals, including, but not limited to, the Salmonidae family of fish; e.g., trout and salmon, in ponds, raceways, or other similar structures which discharge at least thirty (30) days per year but does not include:

1. Facilities which produce less than 9,090 harvest weight kilograms (approximately 20,000 pounds) of aquatic animals per year; and

2. Facilities which feed less than 2,272 kilograms (approximately 5,000 pounds) of food during the calendar month of maximum feeding.

(b) Warm water fish species or other warm water aquatic animals, including, but not limited to, the Ameiuride, Centrarchidae and Cyprinidae families of fish; e.g., respectively, catfish, sunfish and minnows, in ponds, raceways, or other similar structures which discharge at least thirty (30) days per year, but does not include:

1. Closed ponds which discharge only during periods of excess runoff; or

2. Facilities which produce less than 45,454 harvest weight kilograms (approximately 100,000 pounds) of aquatic animals per year.

(3) Case-by-case designation of concentrated aquatic animal production facilities. (a) The cabinet may designate any warm or cold water aquatic animal production facility as a concentrated aquatic animal production facility upon determining that it is a significant contributor of pollution to waters of the Commonwealth. In making this designation the cabinet shall consider the following factors:

1. The location and quality of the receiving waters of the Commonwealth;

2. The holding, feeding, and production capacities of the facility;

3. The quantity and nature of the pollutants reaching waters of the Commonwealth; and

4. Other relevant factors.

(b) A permit application shall not be required from a concentrated aquatic animal production facility designated under this subsection until the cabinet has conducted on-site inspection of the facility and has determined that the facility should and could be regulated under the permit program.

Section 12. Storm Water Discharges. (1) Permit requirement.

(a) Prior to October 1, 1992, discharges composed entirely of storm water shall not be required to obtain a KPDES permit except:

1. A discharge with respect to which a permit has been issued prior to February 4, 1987;

2. A discharge associated with industrial activity (see also paragraph (d) of this subsection);

3. A discharge from a large municipal separate storm sewer system;

4. A discharge from a medium municipal separate storm sewer system; and

5. A discharge which the cabinet or the EPA regional administrator determines to contribute to a violation of a water quality standard or is a significant contributor of pollutants to waters of the Commonwealth. This designation may include a discharge from any conveyance or system of conveyances used for collecting and conveying storm water runoff or a system of discharges from municipal separate storm sewers, except for those discharges from conveyances which do not require a permit under paragraph (b) of this subsection or agricultural storm water runoff which is exempted from the definition of point source in 401 KAR 5:002[~~1~~]. The cabinet may designate discharges from municipal separate storm sewers on a system-wide or jurisdiction-wide basis. In making this determination the cabinet may consider the following

factors:

a. The location of the discharge with respect to waters of the Commonwealth;

b. The size of the discharge;

c. The quantity and nature of the pollutants discharged to waters of the Commonwealth; and

d. Other relevant factors.

(b) The cabinet shall not require a permit for discharges of storm water runoff from mining operations or oil and gas exploration, production, processing or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances including but not limited to pipes, conduits, ditches, and channels, used for collecting and conveying precipitation runoff and which are not contaminated by contact with or that has not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of these operations.

(c) Large and medium municipal separate storm sewer systems.

1. Permits shall be obtained for all discharges from large and medium municipal separate storm sewer systems.

2. The cabinet may either issue one (1) system-wide permit covering all discharges from municipal separate storm sewers within a large or medium municipal storm sewer system or issue distinct permits for appropriate categories of discharges within a large or medium municipal separate storm sewer system including, but not limited to all discharges owned or operated by the same municipality; located within the same jurisdiction; all discharges within a system that discharge to the same watershed; discharges within a system that are similar in nature; or for individual discharges from municipal separate storm sewers within the system.

3. The owner or operator of a discharge from a municipal separate storm sewer which is part of a large or medium municipal separate storm sewer system shall either:

a. Participate in a permit application, i.e., be a permittee or a copermittee, with one (1) or more other owner or operators of discharges from the large or medium municipal storm sewer system which covers all, or a portion of all, discharges from the municipal separate storm sewer system;

b. Submit a distinct permit application which only covers discharges from the municipal separate storm sewers for which the owner or operator is responsible; or

c. A regional authority may be responsible for submitting a permit application under the following guidelines:

(i) The regional authority together with coapplicants shall have authority over a storm water management program that is in existence, or shall be in existence at the time Part 1 of the application is due;

(ii) The permit applicant or coapplicants shall establish their ability to make a timely submission of Part 1 and Part 2 of the municipal application;

(iii) Each of the owners or operators of municipal separate storm sewers within the systems defined in 401 KAR 5:002[1], that are under the purview of the designated regional authority, shall comply with the application requirements of subsection (3) of this section.

4. One (1) permit application may be submitted for all or a portion of all municipal separate storm sewers within adjacent or interconnected large or medium municipal separate storm sewer systems. The cabinet may issue one (1) system-wide permit covering all or a portion of all municipal separate storm sewers in adjacent or interconnected large or medium municipal separate storm sewer systems.

5. Permits for all or a portion of all discharges from large or medium municipal separate storm sewer systems that are issued on a system-wide, jurisdiction-wide, watershed or other basis may specify different conditions relating to different discharges covered by the permit, including different management programs for different drainage areas which contribute storm water to the system.

6. Copermittees need only comply with permit conditions relating to discharges from the municipal separate storm sewers for which they are owners or operators.

(d) Discharges through large and medium municipal separate storm sewer systems. In addition to meeting the requirements of subsection (2) of this section, an owner or operator of a storm water discharge associated with industrial activity which discharges through a large or medium municipal separate storm sewer system shall submit, to the owner or operator of the municipal separate storm sewer system receiving the discharge no later than May 15, 1991, or 180 days prior to commencing this discharge: the name of the facility; a contact person and phone number; the location of the discharge; a description, including Standard Industrial Classification, which best reflects the principal products or services provided by each facility; and any existing KPDES permit number.

(e) Other municipal separate storm sewers. The cabinet may issue permits for municipal separate storm sewers that are designated under paragraph (a)5 of this subsection on a system-wide basis, jurisdiction-wide basis, watershed basis or other appropriate basis, or may issue permits for individual discharges.

(f) Nonmunicipal separate storm sewers. For storm water discharges associated with industrial activity from point sources which discharge through a nonmunicipal or nonpublicly owned separate storm sewer system, the cabinet may issue: a single KPDES permit, with each

discharger a copermittee to a permit issued to the owner or operator of the portion of the system that discharges into waters of the Commonwealth; or, individual permits to each discharger of storm water associated with industrial activity through the nonmunicipal conveyance system.

1. All storm water discharges associated with industrial activity that discharge through a storm water discharge system that is not a municipal separate storm sewer shall be covered by an individual permit, or a permit issued to the owner or operator of the portion of the system that discharges to waters of the Commonwealth, with each discharger to the nonmunicipal conveyance a copermittee to that permit.

2. Where there is more than one (1) owner or operator of a single system of such conveyances, all operators of storm water discharges associated with industrial activity shall submit applications.

3. Any permit covering more than one (1) owner or operator shall identify the effluent limitations, or other permit conditions, if any, that apply to each operator.

(g) Combined sewer systems. Conveyances that discharge storm water runoff combined with municipal sewage are point sources that shall obtain KPDES permits in accordance with the procedures of Section 5 of this administrative regulation and are not subject to the provisions of this section.

(h) Whether a discharge from a municipal separate storm sewer is or is not subject to regulation under this section shall have no bearing on whether the owner or operator of the discharge is eligible for funding under [~~Title II, Title III or Title VI of~~] the Clean Water Act, 33 U.S.C.1251 et seq.. See 40 C.F.R. Part 35, Subpart I, Appendix A[~~b)H.2.j~~].

(i) On and after October 1, 1994, for discharges composed entirely of storm water, that are not required by subsection (1)(a) of this section to obtain a permit, operators shall be

required to obtain a KPDES permit only if:

1. The discharge is from a small MS4 required to be regulated pursuant to subsection (7) of this section;

2. The discharge is a storm water discharge associated with small construction activity pursuant to 401 KAR 5:002;

3. The cabinet, or the EPA Regional Administrator, determines that storm water controls are needed for the discharge based on wasteload allocations that are part of "total maximum daily loads" (TMDLs) that address the pollutant(s) of concern; or

4. The cabinet, or the EPA Regional Administrator, determines that the discharge, or category of discharges within a geographic area, contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the Commonwealth.

(j) Operators of small MS4s designated pursuant to (i)1, (i)3, and (i)4) of this subsection shall seek coverage under an KPDES permit in accordance with sub-sections (8) through (10) of this section. Operators of non-municipal sources designated pursuant to (i)2, (i)3, and (i)4 of this subsection shall seek coverage under an KPDES permit in accordance with subsection (2)(a) of this section.

(k) Operators of storm water discharges designated pursuant to (i)3)and (i)4 of this subsection shall apply to the cabinet for a permit within 180 days of receipt of notice, unless permission for a later date is granted by the cabinet.

(2) Application requirements for storm water discharges associated with industrial activity and storm water discharges associated with small construction activity**.**

(a) Individual application. Dischargers of storm water associated with industrial activity and with small construction activity are required to apply for an individual permit or seek

coverage under a promulgated storm water general permit. [~~shall apply for an individual permit, apply for a permit through a group application, or seek coverage under an issued storm water general permit~~] Facilities that are required to obtain an individual permit, or any discharge of storm water which the cabinet is evaluating for designation under paragraph (a)5 of this subsection and is not a municipal separate storm sewer[~~, and which are not part of a group application described under subsection (2)(b) of this section,~~] shall submit a KPDES application in accordance with the requirements of Section 3 of this administrative regulation as modified and supplemented by the provisions of the remainder of this paragraph. Applicants for discharges composed entirely of storm water shall submit Form 1 and Form F. Applicants for discharges composed of storm water and nonstorm water shall submit Form 1, Form Short C, and Form F.

1. Except as provided in subparagraphs 2, 3, and 4 of this paragraph the owner or operator of a storm water discharge associated with industrial activity subject to this section shall provide:

a. A site map showing topography, or indicating the outline of drainage areas served by the outfalls covered in the application if a topographic map is unavailable, of the facility including: each of its drainage and discharge structures; the drainage area of each storm water outfall; paved areas and buildings within the drainage area of each storm water outfall; each past or present area used for outdoor storage or disposal of significant materials; each existing structural control measure to reduce pollutants in storm water runoff; materials loading and access areas; areas where pesticides, herbicides, soil conditioners and fertilizers are applied, each of its hazardous waste treatment, storage or disposal facilities, including each area not required to have a RCRA permit which is used for accumulating hazardous waste under 40 C.F.R. 262.34;

each well where fluids from the facility are injected underground; springs; and other surface water bodies which receive storm water discharges from the facility;

b. An estimate of the area of impervious surfaces, including paved areas and building roofs, and the total area drained by each outfall, within a mile radius of the facility, and a narrative description of the following: significant materials that in the three (3) years prior to the submittal of this application have been treated, stored or disposed in a manner to allow exposure to storm water; method of treatment, storage or disposal of the materials; materials management practices employed, in the three (3) years prior to the submittal of this application, to minimize contact by these materials with storm water runoff; materials loading and access areas; the location, manner and frequency in which pesticides, herbicides, soil conditioners and fertilizers are applied; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of the treatment the storm water receives, including the ultimate disposal of any solid or fluid wastes other than by discharge;

c. A certification that all outfalls that should contain storm water discharges associated with industrial activity have been tested or evaluated for the presence of nonstorm water discharges which are not covered by a KPDES permit; tests for these nonstorm water discharges may include smoke tests, fluorometric dye tests, analysis of accurate schematics, as well as other appropriate tests. The certification shall include a description of the method used, the date of any testing, and the on-site drainage points that were directly observed during a test;

d. Existing information regarding significant leaks or spills of toxic or hazardous pollutants at the facility that have taken place within the three (3) years prior to the submittal of this application;

e. Quantitative data based on samples collected during storm events and collected in accordance with Section 3 of this administrative regulation from all outfalls containing a storm water discharge associated with industrial activity for the following parameters:

(i) Any pollutant limited in an effluent guideline to which the facility is subject;

(ii) Any pollutant listed in the facility's KPDES permit for its process wastewater, if the facility is operating under an existing KPDES permit;

(iii) Oil and grease, pH, BOD, COD, TSS, total phosphorus, total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen;

(iv) Any information on the discharge required under Section 2(7)(f) and (g) of this administrative regulation;

(v) Flow measurements or estimates of the flow rate, and the total amount of discharge for the storm events sampled, and the method of flow measurement or estimation; and

(vi) The date and duration in hours of the storm events sampled, rainfall measurements or estimates of the storm event in inches which generated the sampled runoff and the duration between the storm event sampled and the end of the previous measurable (greater than one-tenth (0.1) inch rainfall) storm event in hours;

f. Owners or operators of a discharge which is composed entirely of storm water are exempt from the requirements of Section 2(2), (3), (4), (5), and (7)(a), (b) and (e) of this administrative regulation; and

g. Owners or operators of new sources or new discharges which are composed in part or entirely of storm water shall include estimates for the pollutants or parameters listed in clause e of this subparagraph instead of actual sampling data, along with the source of each estimate. Owners or operators of new sources or new discharges composed in part or entirely of

storm water shall provide quantitative data for the parameters listed in clause e of this subparagraph within two (2) years after commencement of discharge, unless data have already been reported under the monitoring requirements of the KPDES permit for the discharge.

2. The owner or operator of an existing or new storm water discharge that is storm water associated with construction activity solely as defined in 401 KAR 5:002 or is associated with small construction activity solely as defined in 401 KAR 5:002, is exempt from the requirements of Section 2 of this administrative regulation and subparagraph 1 of this paragraph. The owner or operator shall provide a narrative description of:

a. The location, including a map, and the nature of the construction activity;

b. The total area of the site and the area of the site that is expected to undergo excavation during the life of the permit;

c. Proposed measures, including best management practices, to control pollutants in storm water discharges during construction, including a brief description of applicable state and local erosion and sediment control requirements;

d. Proposed measures to control pollutants in storm water discharges that will occur after construction operations have been completed, including a brief description of applicable state or local erosion and sediment control requirements;

e. An estimate of the runoff coefficient of the site and the increase in impervious area after the construction addressed in the permit application is completed, the nature of fill material and existing data describing the soil or the quality of the discharge; and

f. The name of the receiving water.

3. The owner or operator of an existing or new discharge composed entirely of storm water from an oil or gas exploration, production, processing, or treatment operation, or

transmission facility is not required to submit a permit application in accordance with subparagraph 1 of this paragraph unless the facility:

a. Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 C.F.R. 117.21 or 40 C.F.R. 302.6 at anytime since November 16, 1987; or

b. Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 C.F.R. 110.6 at any time since November 16, 1987; or

c. Contributes to a violation of a water quality standard.

4. The owner or operator of an existing or new discharge composed entirely of storm water from a mining operation is not required to submit a permit application unless the discharge has come into contact with, any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of these operations.

5. Applicants shall provide such other information the cabinet may reasonably require under Section 2(12) of this administrative regulation to determine whether to issue a permit and may require any facility subject to subparagraph 2 of this paragraph to comply with subparagraph 1 of this paragraph.

(b) Group application for discharges associated with industrial activity. In lieu of individual applications or notice of intent to be covered by a general permit for storm water discharges associated with industrial activity, a group application may be filed by an entity representing a group of applicants, except facilities that have existing individual KPDES permits for storm water, that are part of the same subcategory (see 40 C.F.R. Chapter I, Subchapter N, Part 405 to 471) or, where such grouping is inapplicable, are sufficiently similar as to be

appropriate for general permit coverage under 401 KAR 5:055, Section 5. The Part 1 application shall be submitted to the Office of Water Enforcement and Permits, U.S. EPA, 401 M Street, SW., Washington, DC 20460 (EN-336) for approval. Once a Part 1 application is approved, group applicants shall submit Part 2 of the group application to the Office of Water Enforcement and Permits. A group application shall consist of:

1. Part 1. Part 1 of a group application shall:

a. Identify the participants in the group application by name and location. Kentucky facilities participating in the group application are listed in precipitation zone 2 as given in Appendix E of 40 C.F.R. Part 122.

b. Include a narrative description summarizing the industrial activities of participants of the group application and explaining why the participants, as a whole, are sufficiently similar to be a covered by a general permit;

c. Include a list of significant materials stored exposed to precipitation by participants in the group application and materials management practices employed to diminish contact by these materials with precipitation and storm water runoff;

d. Identify ten (10) percent of the dischargers participating in the group application, with a minimum of ten (10) dischargers, and either a minimum of two (2) dischargers from each precipitation zone indicated in Appendix E of 40 C.F.R. Part 122 in which ten (10) or more members of the group are located, or one (1) discharger from each precipitation zone indicated in Appendix E of 40 C.F.R. Part 122 in which nine (9) or fewer members of the group are located, from which quantitative data will be submitted in Part 2. If more than 1,000 facilities are identified in a group application, no more than 100 dischargers shall submit quantitative data in Part 2. Groups of between four (4) and ten (10) dischargers may be formed. However, in groups

of between four (4) and ten (10), at least half the facilities shall submit quantitative data, and at least one (1) facility in each precipitation zone in which members of the group are located shall submit data. A description of why the facilities selected to perform sampling and analysis are representative of the group as a whole in terms of the information provided in clauses b and c of this subparagraph, shall accompany this section of the application. Different factors impacting the nature of the storm water discharges, such as processes used and material management, shall be represented, to the extent feasible, in a manner roughly equivalent to their proportion in the group.

2. Part 2. Part 2 of a group application shall contain quantitative data (NPDES Form 2F), as modified by paragraph (a) of this subsection, so that when Part 1 and Part 2 of the group application are taken together, a complete NPDES application (Form 1, Form 2C, and Form 2F) can be evaluated for each discharger identified in subparagraph 1d of this paragraph.

(3) Application requirements for large and medium municipal separate storm sewer discharges. The owner or operator of a discharge from a large or medium municipal separate storm sewer or a municipal separate storm sewer that is designated by the cabinet under subsection (1)(a)5 of this section, may submit a jurisdiction-wide or system-wide permit application. If more than one (1) public entity owns or operates a municipal separate storm sewer within a geographic area including adjacent or interconnected municipal separate storm sewer systems, the owners or operators may be coapplicants to the same application. Permit applications for discharges from large and medium municipal storm sewers or municipal storm sewers designated under subsection (1)(a)5 of this section shall include;

(a) Part 1. Part 1 of the application shall consist of:

1. General information. The applicants' name, address, telephone number of contact

person, ownership status and status as a state or local government entity.

2. Legal authority. A description of existing legal authority to control discharges to the municipal separate storm sewer system. When existing legal authority is not sufficient to meet the criteria provided in paragraph (b)1 of this subsection, the description shall list additional authorities as will be necessary to meet the criteria and shall include a schedule and commitment to seek such additional authority that will be needed to meet the criteria.

3. Source identification.

a. A description of the historic use of ordinances, guidance or other controls which limited the discharge of nonstorm water discharges to any POTW serving the same area as the municipal separate storm sewer system.

b. A USGS seven and one-half (7.5) minute topographic map, or equivalent topographic map with a scale between 1:10,000 and 1:24,000 if cost effective, extending one (1) mile beyond the service boundaries of the municipal storm sewer system covered by the permit application. The following information shall be provided:

(i) The location of known municipal storm sewer system outfalls discharging to waters of the Commonwealth;

(ii) A description of the land use activities (e.g., divisions indicating undeveloped, residential, commercial, agricultural and industrial uses) accompanied with estimates of population densities and projected growth for a ten (10) year period within the drainage area served by the separate storm sewer. For each land use type, an estimate of an average runoff coefficient shall be provided;

(iii) The location and a description of the activities of the facility of each currently operating or closed municipal landfill or other treatment, storage or disposal facility for

municipal waste;

(iv) The location and the permit number of any known discharge to the municipal storm sewer that has been issued a KPDES permit;

(v) The location of major structural controls for storm water discharge (retention basins, detention basins, major infiltration devices, etc.); and

(vi) The identification of publicly owned parks, recreational areas, and other open lands.

4. Discharge characterization.

a. Monthly mean rain and snow fall estimates or summary of weather bureau data and the monthly average number of storm events.

b. Existing quantitative data describing the volume and quality of discharges from the municipal storm sewer, including a description of the outfalls sampled, sampling procedures and analytical methods used.

c. A list of water bodies that receive discharges from the municipal separate storm sewer system, including downstream segments and lakes, where pollutants from the system discharges may accumulate and cause water degradation and a brief description of known water quality impacts. At a minimum, the description of impacts shall include a description of whether the water bodies receiving these discharges have been:

(i) Assessed and reported in Section 305(b), 33 U.S.C. 1315(b) reports submitted by the Commonwealth, the basis for the assessment, evaluated or monitored, a summary of designated use support and attainment of Clean Water Act (CWA) goals (fishable and swimmable waters), and causes of nonsupport of designated uses;

(ii) Listed under Section 304(l)(1)(A)(i), Section 304(l)(1)(A)(ii), or Section

304(l)(1)(B) of the CWA, 33 U.S.C. 1314(l)(1)(B) that is not expected to meet water quality standards or water quality goals;

(iii) Listed in state nonpoint source assessments required by Section 319(a) of the CWA, 33 U.S.C. 1329(a), that, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain water quality standards due to storm sewers, construction, highway maintenance and runoff from municipal landfills and municipal sludge adding significant pollution, or contributing to a violation of water quality standards;

(iv) Identified and classified according to eutrophic condition of publicly owned lakes listed in state reports required under Section 314(a) of the CWA, 33 U.S.C. 1324(a). The following shall be included: a description of those publicly owned lakes for which uses are known to be impaired; a description of procedures, processes and methods to control the discharge of pollutants from municipal separate storm sewers into these lakes; and a description of methods and procedures to restore the quality of those lakes;

(v) Recognized by the applicant as highly valued or sensitive waters;

(vi) Defined by the U.S. Fish and Wildlife Service[s]'s National Wetlands Inventory as wetlands; and

(vii) Found to have pollutants in bottom sediments, fish tissue or biosurvey data.

d. Field screening. Results of a field screening analysis for illicit connections and illegal dumping for either selected field screening points or major outfalls covered in the permit application. At a minimum, a screening analysis shall include a narrative description, for either each field screening point or major outfall, of visual observations made during dry weather periods. If any flow is observed, two (2) grab samples shall be collected during a twenty-four (24) hour period with a minimum period of four (4) hours between samples. For all samples, a

narrative description of the color, odor, turbidity, the presence of an oil sheen or surface scum as well as any other relevant observations regarding the potential presence of nonstorm water discharges or illegal dumping shall be provided. In addition, a narrative description of the results of a field analysis using suitable methods to estimate pH, total chlorine, total copper, total phenol, and detergents (surfactants) shall be provided along with a description of the flow rate. Where the field analysis does not involve analytical methods referenced in 40 C.F.R. Part 136, the applicant shall provide a description of the method used including the name of the manufacturer of the test method along with the range and accuracy of the test. Field screening points shall be either major outfalls, other outfall points or any other point of access such as manholes randomly located throughout the storm sewer system by placing a grid over a drainage system map and identifying those cells of the grid which contain a segment of the storm sewer system or major outfall. The field screening points shall be established using the following guidelines and criteria:

(i) A grid system consisting of perpendicular north-south and east-west lines spaced one-fourth (1/4) mile apart shall be overlaid on a map of the municipal storm sewer system, creating a series of cells;

(ii) All cells that contain a segment of the storm sewer system shall be identified; one (1) field screening point shall be selected in each cell; major outfalls may be used as field screening points;

(iii) Field screening points should be located downstream of any sources of suspected illegal or illicit discharge;

(iv) Field screening points shall be located to the degree practicable at the farthest manhole or other accessible location downstream in the system, within each cell; however, safety

of personnel and accessibility of the location should be considered in making this determination;

(v) Hydrological conditions; total drainage area of the site; population density of the site; traffic density; age of the structures or buildings in the area; history of the area; and land use types;

(vi) For medium municipal separate storm sewer systems, no more than 250 cells need to have identified field screening points; in large municipal separate storm sewer systems, no more than 500 cells need to have identified field screening points; cells established by the grid that contain no storm sewer segments will be eliminated from consideration; if fewer than 250 cells in medium municipal sewers are created, and fewer than 500 in large systems are created by the overlay on the municipal sewer map, then all those cells which contain a segment of the sewer system shall be subject to field screening, unless access to the separate storm sewer system is impossible; and

(vii) Large or medium municipal separate storm sewer systems which are unable to utilize the procedures described in clause d(i) through (vi) of this subparagraph, because a sufficiently detailed map of the separate storm sewer systems is unavailable, shall field screen no more than 500 or 250 major outfalls respectively, or all major outfalls in the system, if less. In these circumstances, the applicant shall establish a grid system consisting of north-south and east-west lines spaced one-fourth (1/4) mile apart as an overlay to the boundaries of the municipal storm sewer system, thereby creating a series of cells. The applicant shall then select major outfalls in as many cells as possible until at least 500 major outfalls for large municipalities or 250 major outfalls for medium municipalities are selected; a field screening analysis shall be undertaken at these major outfalls.

e. Characterization plan. Information and a proposed program to meet the

requirements of paragraph (b)3 of this subsection. The description shall include: the location of outfalls or field screening points appropriate for representative data collection under paragraph (b)3a of this subsection, a description of why the outfall or field screening point is representative, the seasons during which sampling is intended, and a description of the sampling equipment. The proposed location of outfalls or field screening points for sampling shall reflect water quality concerns (see clause c of this subparagraph) to the extent practicable.

5. Management programs.

a. A description of the existing management programs to control pollutants from the municipal separate storm sewer system. The description shall provide information on existing structural and source controls, including operation and maintenance measures for structural controls, that are currently being implemented. Controls may include, but are not limited to procedures to control pollution resulting from construction activities; floodplain management controls; wetland protection measures; best management practices for new subdivisions; and emergency spill response programs. The description may address controls established under state law as well as local requirements.

b. A description of the existing program to identify illicit connections to the municipal storm sewer system. The description shall include inspection procedures and methods for detecting and preventing illicit discharges, and describe areas where this program has been implemented.

6. Fiscal resources. A description of the financial resources currently available to the municipality to complete Part 2 of the permit application. A description of the municipality's budget for existing storm water programs, including an overview of the municipality's financial resources and budget, including overall indebtedness and assets, and sources of funds for storm

water programs shall be provided.

(b) Part 2. Part 2 of the application shall consist of:

1. Adequate legal authority. A demonstration that the applicant can operate pursuant to legal authority established by statute, ordinance or series of contracts which authorizes or enables the applicant at a minimum to:

a. Control through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with industrial activity and the quality of storm water discharged from sites of industrial activity;

b. Prohibit through ordinance, order or similar means, illicit discharges to the municipal separate storm sewer;

c. Control through ordinance, order or similar means the discharge to a municipal separate storm sewer of spills, dumping or disposal of materials other than storm water;

d. Control through interagency agreements among coapplicants the contribution of pollutants from one (1) portion of the municipal system to another portion of the municipal system;

e. Require compliance with conditions in ordinances, permits, contracts or orders; and

f. Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer.

2. Source identification. List the locations of any major outfalls that discharge to waters of the Commonwealth that were not reported under paragraph (a)3b(i) of this subsection. Provide an inventory, organized by watershed of the name and address, and a description, such as

SIC codes, which best reflects the principal products or services provided by each facility which may discharge to the municipal separate storm sewer, storm water associated with industrial activity;

3. Characterization data. When quantitative data for a pollutant are required under paragraph (a)3a(iii) of this subsection, the applicant shall collect a sample of effluent in accordance with Section 2(7) of this administrative regulation and analyze it for the pollutant in accordance with analytical methods referenced in 40 C.F.R. Part 136. When no analytical method is approved the applicant may use any suitable method but shall provide a description of the method. The applicant shall provide information characterizing the quality and quantity of discharges covered in the permit application, including:

a. Quantitative data from representative outfalls designated by the cabinet. Based on information received in Part 1 of the application, the cabinet shall designate between five (5) and ten (10) outfalls or field screening points as representative of the commercial, residential and industrial land use activities of the drainage area contributing to the system. Where there are less than five (5) outfalls covered in the application, the cabinet shall designate all outfalls. A monitoring plan shall be developed as follows:

(i) For each outfall or field screening point designated under this clause, samples shall be collected of storm water discharges from three (3) storm events occurring at least one (1) month apart in accordance with the requirements at Section 2(7) of this administrative regulation. The cabinet may allow exemptions to sampling three (3) storm events when climatic conditions create good cause for these exemptions;

(ii) A narrative description shall be provided of the date and duration of the storm events sampled, rainfall estimates of the storm event which generated the sampled discharge and

the duration between the storm event sampled and the end of the previous greater than one-tenth (0.1) inch rainfall storm event;

(iii) For samples collected and described under subclause a(i) and (ii) of this clause, quantitative data shall be provided for the pollutants listed in Section 8(2) and (3) of this administrative regulation, and for the following pollutants:

Total suspended solids (TSS)

Total dissolved solids (TDS)

COD

BOD

Oil and grease

Fecal coliform

Fecal streptococcus

pH

Total Kjeldahl nitrogen

Nitrate plus nitrite

Dissolved phosphorus

Total ammonia plus organic nitrogen

Total phosphorus

(iv) List additional limited quantitative data required by the cabinet for determining permit conditions. The cabinet may require that quantitative data be provided for additional parameters, and may establish sampling conditions such as the location, season of sample collection, form of precipitation (snow melt, rainfall) and other parameters necessary to insure representativeness;

b. Estimates of the annual pollutant load of the cumulative discharges to waters of the Commonwealth from all identified municipal outfalls and the event mean concentration of the cumulative discharges to waters of the Commonwealth from all identified municipal outfalls during a storm event for BOD, COD, TSS, dissolved solids, total nitrogen, total ammonia plus organic nitrogen, total phosphorus, dissolved phosphorus, cadmium, copper, lead, and zinc. Estimates shall be accompanied by a description of the procedures for estimating constituent loads and concentrations, including any modelling, data analysis, and calculation methods;

c. A proposed schedule to provide estimates for each major outfall identified in either subparagraph 2 of this paragraph or paragraph (a)3b(i) of this subsection of the seasonal pollutant load and of the event mean concentration of a representative storm for any constituent detected in any sample required under clause a of this subparagraph and

d. A proposed monitoring program for representative data collection for the term of the permit that describes the location of outfalls or field screening points to be sampled, or the location of instream stations, why the location is representative, the frequency of sampling, parameters to be sampled, and a description of sampling equipment.

4. Proposed management program. A proposed management program covers the duration of the permit. It shall include a comprehensive planning process which involves public participation and where necessary intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions which are appropriate. The program shall also include a description of staff and equipment available to implement the program. Separate proposed programs may be submitted by each coapplicant. Proposed programs may impose controls on a system-wide basis, a watershed basis, a jurisdiction basis, or

on individual outfalls. Proposed programs shall be considered by the cabinet when developing permit conditions to reduce pollutants in discharges to the maximum extent practicable. Proposed management programs shall describe priorities for implementing controls. The programs shall be based on:

a. A description of structural and source control measures to reduce pollutants from runoff from commercial and residential areas that are discharged from the municipal storm sewer system that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads and a proposed schedule for implementing such controls. At a minimum, the description shall include:

(i) A description of maintenance activities and a maintenance schedule for structural controls to reduce pollutants, including floatables, in discharges from municipal separate storm sewers;

(ii) A description of planning procedures including a comprehensive master plan to develop, implement and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers which receive discharges from areas of new development and significant redevelopment. The plan shall address controls to reduce pollutants in discharges from municipal separate storm sewers after construction is completed. Controls to reduce pollutants in discharges from municipal separate storm sewers containing construction site runoff are addressed in clause d of this subparagraph;

(iii) A description of practices for operating and maintaining public streets, roads and highways and procedures for reducing the impact on receiving waters of discharges from municipal storm sewer systems, including pollutants discharged as a result of deicing activities;

(iv) A description of procedures to assure that flood management projects assess the

impacts on the water quality of receiving water bodies and that existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible;

(v) A description of a program to monitor pollutants in runoff from operating or closed municipal landfills or other treatment, storage or disposal facilities for municipal waste, which shall identify priorities and procedures for inspections and establishing and implementing control measures for the discharges. This program may be coordinated with the program developed under clause c of this subparagraph; and

(vi) A description of a program to reduce to the maximum extent practicable, pollutants in discharges from municipal separate storm sewers associated with the application of pesticides, herbicides and fertilizer which shall include, as appropriate, controls such as educational activities, permits, certifications and other measures for commercial applicators and distributors, and controls for application in public right-of-ways and at municipal facilities.

b. A description of a program, including a schedule, to detect and remove, or require the discharger to the municipal separate storm sewer to obtain a separate KPDES permit for, illicit discharges and improper disposal into the storm sewer. The proposed program shall include:

(i) A description of a program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the municipal separate storm sewer system. This program description shall address all types of illicit discharges, however the following category of nonstorm water discharges or flows shall be addressed where the discharges are identified by the municipality as sources of pollutants to waters of the Commonwealth: water line flushing, landscape irrigation, diverted stream flows, rising ground

waters, uncontaminated ground water infiltration (as specified at 40 C.F.R. 35.2005(b)(20)) to separate storm sewers, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water. Program descriptions shall address discharges or flows from fire fighting only where the discharges or flows are identified as significant sources of pollutants to waters of the Commonwealth;

(ii) A description of procedures to conduct on-going field screening activities during the life of the permit, including areas or locations that will be evaluated by the field screens;

(iii) A description of procedures to be followed to investigate portions of the separate storm sewer system that, based on the results of the field screen, or other appropriate information, indicate a reasonable potential of containing illicit discharges or other sources of nonstorm water. The procedures may include sampling procedures for constituents such as fecal coliform, fecal streptococcus, surfactants (MBAS), residual chlorine, fluorides and potassium; testing with fluorometric dyes; or conducting in storm sewer inspections where safety and other considerations allow. The description shall include the location of storm sewers that have been identified for the evaluation;

(iv) A description of procedures to prevent, contain, and respond to spills that may discharge into the municipal separate storm sewer;

(v) A description of a program to promote, publicize, and facilitate public reporting of the presence of illicit discharges or water quality impacts associated with discharges from municipal separate storm sewers;

(vi) A description of educational activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials; and

(vii) A description of controls to limit infiltration of seepage from municipal sanitary sewers to municipal separate storm sewer systems where necessary;

c. A description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA, 42 U.S.C. 11023, and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system. The program shall:

(i) Identify priorities and procedures for inspections and establishing and implementing control measures for these discharges;

(ii) Describe a monitoring program for storm water discharges associated with the industrial facilities identified in clause c of this subparagraph, to be implemented during the term of the permit, including the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing KPDES permit for a facility; oil and grease, COD, pH, BOD, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under Section 2(7)(f) and (g) of this administrative regulation.

d. A description of a program to implement and maintain structural and nonstructural best management practices to reduce pollutants in storm water runoff from construction sites to the municipal storm sewer system, which shall include:

(i) A description of procedures for site planning which incorporate consideration of potential water quality impacts;

(ii) A description of requirements for nonstructural and structural best management practices;

(iii) A description of procedures for identifying priorities for inspecting sites and enforcing control measures which consider the nature of the construction activity, topography, and the characteristics of soils and receiving water quality; and

(iv) A description of appropriate educational and training measures for construction site operators.

5. Assessment of controls. Estimated reductions in loadings of pollutants from discharges of municipal storm sewer constituents from municipal storm sewer systems expected as the result of the municipal storm water quality management program. The assessment shall also identify known impacts of storm water controls on ground water.

6. Fiscal analysis. For each fiscal year to be covered by the permit, a fiscal analysis of the necessary capital and operation and maintenance expenditures necessary to accomplish the activities of the programs under subparagraphs 3 and 4 of this paragraph. This analysis shall include a description of the source of funds that are proposed to meet the necessary expenditures, including legal restrictions on the use of the funds.

7. If more than one (1) legal entity submits an application, the application shall contain a description of the roles and responsibilities of each legal entity and procedures to ensure effective coordination.

8. If requirements under paragraphs (a)4e of this subsection and subparagraphs 2, 3b, and 4 of this paragraph are not practicable or are not applicable, the cabinet may exclude any

operator of a discharge from a municipal separate storm sewer which is designated under subsection (1)(a)5, (2)(d)2 or (2)(g)2 of this section from these requirements. The cabinet shall not exclude the owner or operator of a discharge from a municipal separate storm sewer identified in 40 C.F.R. 122, Appendix F, G, H, or I, from any of the permit application requirements under this subparagraph except where authorized under this section.

(4) Application deadlines. Any owner or operator of a point source required to obtain a permit under subsection (1)(a) of this section that does not have an effective KPDES permit covering its storm water outfalls shall submit an application in accordance with the following deadlines:

(a) Individual applications.

1. Except as provided in subparagraph 2 of this paragraph, for any storm water discharge associated with industrial activity defined in 401 KAR 5:002[~~1~~] that is not part of a group application as described in subsection (2)(b) of this section or which is not authorized by a storm water general permit, a permit application made pursuant to subsection (2) of this section shall be submitted to the cabinet by October 1, 1992;

2. For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 other than an airport, power plant or uncontrolled sanitary landfill, the permit application shall be submitted by March 10, 2003 [~~permit applications are not required~~].

(b) For any group application submitted in accordance with subsection (2)(b) of this section:

1. Part 1.

a. Except as provided in clause b of this subparagraph, Part 1 of the application shall

be submitted to the U.S. EPA Director, Office of Water Enforcement and Permits by September 30, 1991;

b. Any municipality with a population of less than 250,000 shall be required to submit a Part 1 application before May 18, 1992.

c. For any storm water discharge associated with industrial activities from a facility that is owned or operated by a municipality with a population of less than 100,000 other than an airport, power plant or uncontrolled sanitary landfill, permit applications are not required.

2. Based on information in the Part 1 application, the Director will approve or deny the members in the group application within sixty (60) days after receiving Part 1 of the group application.

3. Part 2.

a. Except as provided in clause b of this subparagraph, Part 2 of the application shall be submitted to the Director, Office of Water Enforcement and Permits by October 1, 1992;

b. Any municipality with a population of less than 250,000 shall not be required to submit a Part 1 application before May 17, 1993.

c. For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 other than an airport, power plant or uncontrolled sanitary landfill, permit applications are not required.

4. Rejected facilities.

a. Except as provided in clause b of this subparagraph, facilities that are rejected as members of a group shall submit an individual application or obtain coverage under an applicable general permit no later than twelve (12) months after the date of receipt of the notice of rejection or October 1, 1992, which ever comes first.

b. Facilities that are owned or operated by a municipality and that are rejected as members of Part I group application shall submit an individual application no later than 180 days after the date of the receipt of the notice of registration or October 1, 1992, whichever is later.

5. A facility defined as a storm water associated with industrial activity in 401 KAR 5:002[~~1~~] may add on to a group application submitted in accordance with subparagraph 1 of this paragraph at the discretion of the U.S. EPA Office of Water Enforcement and Permits, and only upon a showing of good cause by the facility and the group applicant; the request for the addition of the facility shall be made no later than February 18, 1992. The addition of the facility shall not cause the percentage of the facilities that are required to submit quantitative data to be less than ten (10) percent, unless there are over 100 facilities in the group that are submitting quantitative data. Approval to become part of group application shall be obtained from the group or the trade association representing the individual facilities.

(c) For any discharge from a large municipal separate storm sewer system:

1. Part 1 of the application shall be submitted to the cabinet by November 18, 1991;

2. Based on information received in the Part 1 application the cabinet shall approve or deny a sampling plan under subsection (3)(a)4e of this section within ninety (90) days after receiving the Part 1 application;

3. Part 2 of the application shall be submitted to the cabinet by November 16, 1992.

(d) For any discharge from a medium municipal separate storm sewer system:

1. Part 1 of the application shall be submitted to the cabinet by May 18, 1992.

2. Based on information received in the Part 1 application the cabinet will approve or deny a sampling plan within ninety (90) days after receiving the Part 1 application.

3. Part 2 of the application shall be submitted to the cabinet by May 17, 1993.

(e) For any discharge from a regulated small MS4, the permit application made under subsection (8) of this section shall be submitted to the cabinet by:

1. March 10, 2003 if designated under (7)(a)1 of this section unless the MS4 serves a jurisdiction with a population under 10,000 and the cabinet has established a phasing schedule under 40 C.F.R. 123.35(d)(3) (see (8)(c)1 of this section); or

2. Within 180 days of notice, unless the cabinet grants a later date, if designated under subsection (7)(a)2, see subsection (8)(c)2.

(f) For any storm water discharge associated with small construction activity identified in 401 KAR 5:002 Section 1, see subsection (4) of this section. Discharges from these sources require permit authorization by March 10, 2003, unless designated for coverage before then.

(g) A permit application shall be submitted to the cabinet within 180[~~sixty (60)~~] days of notice, unless permission for a later date is granted by the cabinet for:

1. A storm water discharge which either the cabinet or the EPA Regional Administrator determines that the discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the Commonwealth (see subsection (1)(a)5 of this section and 401 KAR 5:002 Section 1(290)(b)); or

2. A storm water discharge subject to subsection (2)(a)5 of this section.

(h) Facilities with existing KPDES permits for storm water discharges associated with industrial activity shall maintain existing permits. New applications shall be submitted in accordance with the requirements of Section 2 of this administrative regulation and subsection (2) of this section 180 days before the expiration of the permits.

(5) Petitions. (a) Any owner or operator of a municipal separate storm sewer system

may petition the cabinet to require a separate KPDES permit for any discharge into the municipal separate storm sewer system.

(b) Any person may petition the cabinet to require a KPDES permit for a discharge which is composed entirely of storm water which contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the Commonwealth.

(c) The owner or operator of a municipal separate storm sewer system may petition the cabinet to reduce the census estimates of the population served by such separate system to account for storm water discharged to combined sewers as defined by 401 KAR 5:002, Section 1(55) [~~40 C.F.R. 35.2005(b)(11)~~] that is treated in a publicly owned treatment works. In municipalities or regional authorities in which combined sewers are operated, the census estimates of population may be reduced proportional to the fraction, based on estimated lengths, of the length of combined sewers over the sum of the length of combined sewers and municipal separate storm sewers where an applicant has submitted the KPDES permit number associated with each discharge point and a map indicating areas served by combined sewers and the location of any combined sewer overflow discharge point.

(d) Any person may petition the cabinet for the designation of a large, medium or small [~~medium~~] municipal separate storm sewer system as defined in 401 KAR 5:002[1].

(e) The cabinet shall make a final determination on any petition received under this section within ninety (90) days after receiving the petition with the exception of petitions to designate a small MS4 in which case the cabinet shall make a final determination on the petition within 180 days after its receipt.

(6) Conditional exclusion for "no exposure" of industrial activities and materials to storm water. Discharges composed entirely of storm water are not storm water discharges

associated with industrial activity if there is "no exposure" of industrial materials and activities to rain, snow, snowmelt and/or runoff, and the discharger satisfies the conditions in paragraphs (a) through (d) of this subsection. "No exposure" means that all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product.

(a) Qualification. To qualify for this exclusion, the operator of the discharge shall:

1. Provide a storm resistant shelter to protect industrial materials and activities from exposure to rain, snow, snow melt, and runoff;

2. Complete and sign, according to Section 9 of this regulation, a certification that there are no discharges of storm water contaminated by exposure to industrial materials and activities from the entire facility, except as provided in paragraph (b) of this subsection;

3. Submit the signed certification to the cabinet once every five years;

4. Allow the cabinet to inspect the facility to determine compliance with the "no exposure" conditions;

5. Allow the cabinet to make any "no exposure" inspection reports available to the public upon request; and

6. For facilities that discharge through an MS4, upon request, submit a copy of the certification of "no exposure" to the MS4 operator, as well as allow inspection and public reporting by the MS4 operator.

(b) Industrial materials and activities not requiring storm resistant shelter. To qualify for this exclusion, storm resistant shelter is not required for:

1. Drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak, "Sealed" means banded or otherwise secured and without operational taps or valves;

2. Adequately maintained vehicles used in material handling; and

3. Final products, other than products that would be mobilized in storm water discharge (e.g., rock salt).

(c) Limitations.

1. Storm water discharges from construction activities defined in 401 KAR 5:002 Section 1 are not eligible for this conditional exclusion.

2. This conditional exclusion from the requirement for a KPDES permit is available on a facility-wide basis only, not for individual outfalls. If a facility has some discharges of storm water that would otherwise be "no exposure" discharges, individual permit requirements should be adjusted accordingly.

3. If circumstances change and industrial materials or activities become exposed to rain, snow, snow melt, and/or runoff, the conditions for this exclusion no longer apply. In such cases, the discharge becomes subject to enforcement for un-permitted discharge. Any conditionally exempt discharger who anticipates changes in circumstances should apply for and obtain permit authorization prior to the change of circumstances.

4. Notwithstanding the provisions of this paragraph, the cabinet retains the authority to require permit authorization and deny this exclusion upon making a determination that the discharge causes, has a reasonable potential to cause, or contributes to an instream excursion

above an applicable water quality standard, including designated uses.

(d) Certification. The no exposure certification shall require the submission of the following information, at a minimum, to aid the cabinet in determining if the facility qualifies for the no exposure exclusion:

1. The legal name, address and phone number of the discharger, see Section 1(3) of this regulation;

2. The facility name and address, the county name and the latitude and longitude where the facility is located;

3. The certification shall indicate that none of the following materials or activities are, or will be in the foreseeable future, exposed to precipitation:

a. Using, storing or cleaning industrial machinery or equipment, and areas where residuals from using, storing or cleaning industrial machinery or equipment remain and are exposed to storm water;

b. Materials or residuals on the ground or in storm water inlets from spills/leaks;

c. Materials or products from past industrial activity;

d. Material handling equipment, except adequately maintained vehicles;

e. Materials or products during loading/unloading or transporting activities;

f. Materials or products stored outdoors, except final products intended for outside use, e.g., new cars, where exposure to storm water does not result in the discharge of pollutants;

g. Materials contained in open, deteriorated or leaking storage drums, barrels, tanks, and similar containers;

h. Materials or products handled/stored on roads or railways owned or maintained by the discharger;

i. Waste material, except waste in covered, non-leaking containers, e.g., dumpsters;

j. Application or disposal of process wastewater, unless otherwise permitted; and

k. Particulate matter or visible deposits of residuals from roof stacks/vents not otherwise regulated, i.e., under an air quality control permit, and evident in the storm water outflow;

4. All "no exposure" certifications shall include the following certification statement, and be signed in accordance with the signatory requirements of Section 9 of this regulation: "I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of "no exposure" and obtaining an exclusion from KPDES storm water permitting; and that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the industrial facility identified in this document, except as allowed under paragraph (b) of this subsection. I understand that I am obligated to submit a no exposure certification form once every five years to the cabinet and, if requested, to the operator of the local MS4 into which this facility discharge, where applicable. I understand that I shall allow the cabinet, or MS4 operator where the discharge is into the local MS4, to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I understand that I shall obtain coverage under an KPDES permit prior to any point source discharge of storm water from the facility. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly involved in gathering the information, the information submitted is to the best of my knowledge and belief true, accurate and complete. I

am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(7) Regulated small MS4. (a) Unless qualifying for a waiver under paragraph (c) of this subsection, an operator of a small MS4 is regulated, including but not limited to systems operated by federal, State, and local governments, including State departments of transportation; and:

1. The small MS4 is located in an urbanized area as determined by the latest Decennial Census by the Bureau of the Census. If the small MS4 is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated or

2. Designated by the cabinet, including where the designation is pursuant to 40 C.F.R. 123.35(b)(3) and (b)(4), or is based upon a petition under subsection (5) of this section.

(b) Subject of a petition to the cabinet to require an KPDES permit for discharge of storm water. If the cabinet determines a permit is needed, then subsections (7) through (10) apply.

(c) The cabinet may waive the requirements otherwise applicable in accordance with paragraph (d) or (e) of this subsection. A waiver under this section may subsequently require coverage under a KPDES permit in accordance with subsection(8)(a), if circumstances change, see also 40 C.F.R. 123.35(b).

(d) The cabinet may waive permit coverage if the MS4 serves a population of less than 1,000 within the urbanized area and meets the following criteria:

1. The system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the KPDES storm water program, see 40 C.F.R. 123.35(b)(4); and

2. The system discharges any pollutant(s) that have been identified as a cause of impairment of any water body receiving the discharge, storm water controls are not needed based on wasteload allocations that are part of an EPA approved or established "total maximum daily load" (TMDL) that addresses the pollutant(s) of concern.

(e) The cabinet may waive permit coverage if the MS4 serves a population under 10,000 and meets the following criteria:

1. The cabinet has evaluated all waters of the Commonwealth, including small streams, tributaries, lakes, and ponds, that receive a discharge from the MS4;

2. For all such waters, the cabinet has determined that storm water controls are not needed based on wasteload allocations that are part of an EPA approved or established TMDL that addresses the pollutant(s) of concern or, if a TMDL has not been developed or approved, an equivalent analysis that determines sources and allocations for the pollutant(s) of concern;

3. For the purpose of this paragraph, the pollutant(s) of concern include biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment such as total suspended solids, turbidity or siltation, pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the MS4; and

4. The cabinet has determined that future discharges from the MS4 do not have the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.

(8) Application Requirements for small MS4. (a) Operators of a regulated small MS4 under subsection (7) shall seek coverage under a KPDES permit issued by cabinet.

(b) Authorization to discharge shall be under a general or individual KPDES permit, as follows:

1. For a general permit issued by the cabinet applicable to the discharge, the applicant shall submit a Notice of Intent (NOI) that includes the information on best management practices and measurable goals required by subsection (9)(d)1. An individual NOI, or joint NOI with other municipalities or governmental entities, shall be submitted. Shared responsibilities for meeting the minimum measures with other municipalities or governmental entities, shall be indicated on the NOI describing which minimum measures shall be implemented by each within the area served by the MS4. Coverage as a co-permittee under a general permit by means of a joint Notice of Intent, requires each MS4 to be subject to the enforcement actions and penalties for the failure to comply with the terms of the permit in each respective jurisdiction except as set forth in subsection (10)(b).

2.a. Authorization to discharge under an individual permit to implement a program under subsection (9) of this section, requires submittal of an application to the cabinet that includes the information required under Section 1(7) and subsection (9)(d) of this section, an estimate of square mileage served by the small MS4, and any additional information that the cabinet requests. A storm sewer map that satisfies the requirement of subsection(9)(b)3 will satisfy the map requirement in Section 1(7)(f).

b. Authorization to discharge under an individual permit to implement a program that is different from the program under subsection (9) of this section, requires compliance with the permit application requirements of subsection (3) of this section. Both parts of the application requirements in subsection (3)(a) and (b) shall be submitted by March 10, 2003. Information required by (3)(a)2 and (3)(b)1 regarding legal authority is not required, unless the small MS4 intends for the permit writer to take such information into account when developing the other permit conditions.

c. If allowed by the cabinet, multiple entities may jointly apply under either paragraph (b) 2.a. or (b) 2.b. of this subsection to be co-permittees under an individual permit. Coverage as a co-permittee under an individual permit by means of a joint Notice of Intent requires each MS4 to be subject to the enforcement actions and penalties for the failure to comply with the terms of the permit in each respective jurisdiction except as set forth in subsection (10)(b).

3. Where a small MS4 is in the same urbanized area as a medium or large MS4 with a KPDES storm water permit and that other MS4 is willing to have the small MS4 participate in its storm water program, the entities may jointly seek a modification of the other MS4 permit to include the small MS4 as a limited co-permittee. As a limited co-permittee, the small MS4 will be responsible for compliance with the permit's conditions applicable to its jurisdiction. Choice of this option requires compliance with the permit application requirements of subsection (1), rather than the requirements of subsection (9) of this section. There is no need to comply with the specific application requirements of subparagraphs (3)(a)3 and 4 and (3)(b)3 of this paragraph (discharge characterization). The small MS4 may satisfy the requirements in subparagraphs (3)(a)5 and (3)(b)4 of this paragraph (identification of a management program) by referring to the other MS4's storm water management program.

(c) Operation of a regulated small MS4:

1. Designated under (7)(a)1 of this section, requires coverage under a KPDES permit, or apply for a modification of an existing KPDES permit under paragraph (b)3 of this subsection by March 10, 2003, unless the MS4 serves a jurisdiction with a population under 10,000 and the cabinet has established a phasing schedule under 40 C.F.R. 123.35(d)(3).

2. Designated under (7)(a)2 of this section, requires coverage under an KPDES

permit, or apply for a modification of an existing KPDES permit under paragraph (b)3 of this subsection, within 180 days of notice, unless the cabinet grants a later date.

(9) Permit Requirements for small MS4. (a) The KPDES MS4 permit shall require at a minimum the MS4 to develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. The storm water management program shall include the minimum control measures described in paragraph (b) of this subsection unless the MS4 applies for a permit under subsection (3) of this section. For purposes of this section, narrative effluent limitations requiring implementation of best management practices (BMPs) are generally the most appropriate form of effluent limitations when designed to satisfy technology requirements, including reductions of pollutants to the maximum extent practicable and to protect water quality. Implementation of best management practices consistent with the provisions of the storm water management program required pursuant to this section and the provisions of the permit required pursuant to subsection (8) of this section constitutes compliance with the standard of reducing pollutants to the "maximum extent practicable." The cabinet shall specify a time period of up to five (5) years from the date of permit issuance for the MS4 to develop and implement the program.

(b) Minimum control measures:

1. Public education and outreach on storm water impacts. Implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff.

2. Public involvement/participation. At a minimum, comply with state, and local public notice requirements when implementing a public involvement/ participation program.

3. Illicit discharge detection and elimination. Develop, implement and enforce a program to detect and eliminate illicit discharges as defined in 401 KAR 5:002 Section 1 into the small MS4 to include:

a. A storm sewer system map, showing the location of all outfalls and the names and location of all waters of the Commonwealth that receive discharges from those outfalls;

b. To the extent allowable under State, or local law, effectively prohibit, through ordinance, or other regulatory mechanism, non-storm water discharges into the storm sewer system and implement appropriate enforcement procedures and actions;

c. Develop and implement a plan to detect and address non-storm water discharges, including illegal dumping, to the system; and

d. Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.

e. Address the following categories of non-storm water discharges or flows, i.e., illicit discharges only if identified as significant contributors of pollutants to the small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration as defined at 40 C.F.R. 35.2005(b)(20), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water discharges or flows from fire fighting activities are excluded from the effective prohibition against non-storm water

and need only be addressed where they are identified as significant sources of pollutants to waters of the Commonwealth.

4. Construction site storm water runoff control.

a. Develop, implement, and enforce a program to reduce pollutants in any storm water runoff to the small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of storm water discharges from construction activity disturbing less than one acre shall be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. If the cabinet waives requirements for storm water discharges associated with small construction activity, the small MS4 is not required to develop, implement, and/or enforce a program to reduce pollutant discharges from such sites.

b. The program shall include the development and implementation of, at a minimum:

(i) An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under State or local law;

(ii) Requirements for construction site operators to implement appropriate erosion and sediment control best management practices;

(iii) Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;

(iv) Procedures for site plan review which incorporate consideration of potential water quality impacts;

(v) Procedures for receipt and consideration of information submitted by the public; and

(vi) Procedures for site inspection and enforcement of control measures.

5. Post-construction storm water management in new development and redevelopment.

a. Develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the small MS4. The program shall ensure that controls are in place that would prevent or minimize water quality impacts;

b. Develop and implement strategies which include a combination of structural and/or non-structural best management practices (BMPs) appropriate for the community;

c. Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State or local law; and

d. Ensure adequate long-term operation and maintenance of BMPs.

6. Pollution prevention/good housekeeping for municipal operations.

e. The small MS4 shall develop and implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations. Using training materials that are available from EPA, State, or other organizations, the program shall include employee training to prevent and reduce storm water pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system

maintenance.

(c) If an existing qualifying local program requires the implementation of one or more of the minimum control measures of paragraph (b) of this subsection, the cabinet may include conditions in the KPDES permit that direct the small MS4 to follow that qualifying program's requirements rather than the requirements of paragraph (b) of this subsection. A qualifying local program is a local or state municipal storm water management program that imposes, at a minimum, the relevant requirements of paragraph (b) of this subsection.

(d)1. In the permit application, either a notice of intent for coverage under a general permit or an individual permit application, the small MS4 shall identify and submit to the cabinet the following information:

a. The BMPs that the small MS4 or another entity will implement for each of the storm water minimum control measures at paragraphs (b) 1. through (b)6. of this subsection;

b. The measurable goals for each of the BMPs including, as appropriate, the months and years in which the responsible party will undertake required actions, including interim milestones and the frequency of the action; and

c. The person or persons responsible for implementing or coordinating the storm water management program.

2. If covered under a general permit, the small MS4 is not required to meet any measurable goal(s) identified in the notice of intent in order to demonstrate compliance with the minimum control measures in paragraphs (b)3 through (b)6 of this subsection unless, prior to submitting the NOI, EPA or the State has provided or issued a menu of BMPs that addresses each such minimum measure. Even if no regulatory authority issues the menu of BMPs, however, the small MS4 shall comply with other requirements of the general permit, including

good faith implementation of BMPs designed to comply with the minimum measures.

(e) The small MS4 shall comply with any more stringent effluent limitations in the permit, including permit requirements that modify, or are in addition to, the minimum control measures based on an approved total maximum daily load (TMDL) or equivalent analysis. The cabinet may include such more stringent limitations based on a TMDL or equivalent analysis that determines such limitations are needed to protect water quality.

(f) The small MS4 shall comply with other applicable KPDES permit requirements, standards and conditions established in the individual or general permit, developed consistent with the provisions of 401 KAR 5:065 and 5:070, as appropriate.

(g) Evaluation and assessment.

1. Evaluation. The small MS4 shall evaluate program compliance, the appropriateness of identified best management practices, and progress towards achieving identified measurable goals. The cabinet may determine monitoring requirements in accordance with State monitoring plans appropriate to a watershed.

2. Recordkeeping. The small MS4 shall keep records required by the KPDES permit for at least 3 years. Records shall be submitted to the cabinet only when specifically asked to do so. Records, including a description of the storm water management program, shall be made available to the public at reasonable times during regular business hours, see 400 KAR 1:060 for confidentiality provision.

3. Reporting. Unless relying on another entity to satisfy the KPDES permit obligations under subsection (10)(a) of this section, the small MS4 shall submit annual reports to the cabinet for the first permit term. For subsequent permit terms, reports shall be submitted in year two and four unless the cabinet requires more frequent reports. The report shall include:

a. The status of compliance with permit conditions, an assessment of the appropriateness of identified best management practices and progress towards achieving identified measurable goals for each of the minimum control measures;

b. Results of information collected and analyzed, including monitoring data, if any, during the reporting period;

c. A summary of the storm water activities planned during the next reporting cycle;

d. A change in any identified best management practices or measurable goals for any of the minimum control measures; and

e. Notice of reliance on another governmental entity to satisfy some of the permit obligations, if applicable.

(10) Shared responsibilities for minimum control measures. (a) The small MS4 may rely on another entity to satisfy the KPDES permit obligations to implement a minimum control measure if:

1. The other entity, in fact, implements the control measure;

2. The particular control measure, or component thereof, is at least as stringent as the corresponding KPDES permit requirement; and

3. The other entity agrees to implement the control measure on the small MS4 behalf. In the reports submitted under subsection (9)(g)3. of this section, the small MS4 shall also specify reliance on another entity to satisfy some of the permit obligations. If relying on another governmental entity regulated under this section to satisfy all of the permit obligations, including the obligation to file periodic reports required by subsection (9)(g)3. of this section, that fact shall be noted in the NOI. However, in this case, the small MS4 is not required to file the periodic reports. The small MS4 remains responsible for compliance with the permit

obligations if the other entity fails to implement the control measure (or component thereof).

(b) In some cases, the cabinet may recognize, either in the individual KPDES permit or in an KPDES general permit, that another governmental entity is responsible under an KPDES permit for implementing one or more of the minimum control measures for the small MS4 or that the cabinet itself is responsible. Where the cabinet does so, the small MS4 is not required to include such minimum control measure(s) in the storm water management program. For example, if a state is subject to an KPDES permit that requires it to administer a program to control construction site runoff at the State level and that program satisfies all of the requirements of subsection (9)(b)4. of this section, the small MS4 could avoid responsibility for the construction measure, but would be responsible for the remaining minimum control measures. The permit may be reopened and modified to include the requirement to implement a minimum control measure if the entity fails to implement it.

Section 13. Silvicultural Activities. Permit requirement. Silvicultural point sources, as defined in 401 KAR 5:002[1], are point sources subject to the KPDES permit program.

Section 14. Federal Regulations Adopted Without Change. The following federal regulations govern the subject matter of this administrative regulation and are hereby adopted without change. The federal regulations are published by the Office of the Federal Register, National Archives and Government Services, General Services Administration, and are available for inspection and copying, subject to copyright laws, during normal business hours of 8:00 a.m. to 4:30 p.m., excluding state holidays, at the Division of Water, 14 Reilly Road, Frankfort, Kentucky. Copies are also available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(1) 40 C.F.R. 35.2005(b)(20), "Grants for Construction of Treatment Works,

Definitions, Infiltration," revised as of July 1, 2001;

(2) 40 C.F.R. 110.6, "Discharge of Oil, Notice Requirements," revised as of July 1, 2001;

(3) 40 C.F.R. 117.21, "Notice of Discharge of Reportable Quantity," revised as of July 1, 2001;

(4) 40 C.F.R. 122, "National Pollutant Discharge Elimination System," revised as of July 1, 2001;

(5) 40 C.F.R. 123.35, "Regulation of Small Municipal Separate Storm Sewer Systems," revised as of July 1, 2001;

(6) 40 C.F.R. Part 136, "Guidelines Establishing Test Procedures for the Analyses of Pollutant," revised as of July 1, 2001;

(7) 40 C.F.R. Part 261, "Identification and Listing of Hazardous Waste," revised as of July 1, 2001;

(8) 40 C.F.R. 262.34, "Hazardous Waste, Pre-transport Requirements, Accumulation Time," revised as of July 1, 2001;

(9) 40 C.F.R. 302.6, "Designation, Reportable Quantities and Notification, Notification Requirements," revised as of July 1, 2001;

(10) 40 C.F.R. Part 355, Appendix A, "The List of Extremely Hazardous Substances," revised as of July 1, 2001; and

(11) 40 C.F.R. Chapter I, Subchapter N, Part 401 et seq., "Federal Effluent Limitations and Standards and New Source Performance Standards," revised as of July 1, 2001.

Section 15. Incorporation by Reference [~~KPDES Application Forms~~]. (1) The following material is incorporated by reference:

(a) KPDES Form 1, DEP 7032, revised February 2002;

(b) KPDES Form A, DEP 7032A, revised February 2002;

(c) KPDES Form B, DEP 7032B, revised February 2002;

(d) KPDES Form C, DEP 7032C, revised February 2002;

(e) KPDES Short Form C, DEP 7032SC, revised February 2002; and

(f) KPDES Form F, DEP 7032F, revised February 2002.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law [~~permit applications forms are hereby incorporated by reference. Application forms may be obtained from or inspected~~] at the KPDES Branch at the Division of Water, 14 Reilly Road, Frankfort, Kentucky 40601, (502) 564-3410, during normal business hours of 8:00 a.m. to 4:30 p.m.[~~, eastern time, excluding state holidays~~].

[~~(1) KPDES Form 1, revised July 1994;~~

~~(2) KPDES Form A, revised July 1994;~~

~~(3) KPDES Form B, revised July 1994;~~

~~(4) KPDES Form C, revised July 1994;~~

~~(5) KPDES Short Form C, revised July 1994; and~~

~~(6) KPDES Form F, revised July 1994.~~]

401 KAR 5:060 Approved for promulgation.

James E. Bickford, Secretary
Natural Resources and Environmental
Protection Cabinet

Date

PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for June 25, 2002, 9:30 a.m. in the Franklin County Extension Office, 101 Lakeview Court, Frankfort, Kentucky. Individuals who intend to be heard at this hearing shall notify this agency in writing by June 18, 2002, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. A transcript of the hearing will not be provided unless a written request for a transcript is made. If you request a transcript, you may be required to pay for it. If you do not wish to be heard at the hearing, you may submit written comments on the administrative regulation. Send written notification of your intent to be heard at the hearing, or your written comments on the administrative regulation, to the contact person listed below. Written comments must be received before adjournment of the hearing, or by close of business on June 18, 2002 if the hearing is not held. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Jeffrey W. Pratt, Director
Division of Water
Department for Environmental Protection
14 Reilly Road, Frankfort, Kentucky 40601
Telephone: (502) 564-3410 Fax: (502) 564-0111

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

Administrative Regulation #: 401 KAR 5:060. KPDES application requirements.
Contact person: Jeffrey W. Pratt, Director
Division of Water

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes application requirements for KPDES permits.

(b) The necessity of this administrative regulation: This administrative regulation was needed because all NPDES delegated states must have compatible state regulations.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation sets out the details of applying for KPDES permits. The impact of the KPDES permit program helps to implement the pollution prevention goals of KRS Chapter 224.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation specifies KPDES permit applications requirements. KPDES permits control the introduction of pollutants into waters of the Commonwealth. This is consistent with the goals of KRS Chapter 224.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this administrative regulation: This amendment will correct and update the regulation to make it compatible with the corresponding federal regulation.

(b) The necessity of the amendment to this administrative regulation: If this administrative regulation is not amended as proposed the state regulation will continue to be incompatible with the corresponding federal regulation.

(c) How the amendment conforms to the content of the authorizing statutes: The amended regulation still provides for water pollution control as authorized under KRS Chapter 224.

(d) How the amendment will assist in the effective administration of the statutes: The corrected and updated regulation will be compatible with the corresponding federal regulations which will aid in carrying out the goals of KRS Chapter 224.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will apply to over 10,000 permitted entities which may be individuals, businesses or state/local governmental organizations.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The impact of this administrative regulation amendment will be non-existent because the new requirements went into effect when the corresponding federal regulations were adopted.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: The first year, the Cabinet will incur no additional costs.

(b) On a continuing basis: There will be no additional costs attributable to this amended administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There will be no change in the funding sources due to this amended administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this amended administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation amendment does not establish or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Yes.

(Explain why tiering was or was not used) To the extent that the corresponding federal regulations provided for tiering, these amendments are tiered. Permit requirements are adjusted to reflect the nature or size of the wastewater discharge.

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation #: 401 KAR 5:060 **Contact person:** Jeffrey W. Pratt

1. **Federal statute or regulation constituting the federal mandate.**. There is no federal mandate to obtain delegation of the federal NPDES permit program.

2. **State compliance standards.** This regulation amendment establishes state standards that are the same as the corresponding federal standards.

3. **Minimum or uniform standards contained in the federal mandate.** There is no federal mandate.

4. **Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate?** No, this regulation amendment does not establish any requirements stricter than that established by the corresponding federal regulations.

5. **Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.** No stricter standards are being proposed.

FISCAL NOTE ON LOCAL GOVERNMENT

Administrative Regulation #: 401 KAR 5:060 **Contact person:** Jeffrey W. Pratt

New _____ Amendment: X

1. **Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government?**

   Yes X No _____

2. **State what unit, part or division of local government this administrative regulation will affect.** This administrative regulation amendment will affect city, county, or other municipal governments, including special districts, sanitation districts, etc.

3. **State the aspect or service of local government to which this administrative regulation relates.** This administrative regulation amendment relates to those entities that operate facilities that discharge into waters of the Commonwealth.

4. **Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.** None; since this regulation amendment merely provides for compatibility with corresponding federal regulations which have already gone into effect.

   Revenues (+/-): None

   Expenditures (+/-): None

   Other Explanation: None

SUMMARY OF FEDERAL REUGLATIONS
ADOPTED WITHOUT CHANGE
IN 401 KAR 5:060

(1) 40 C.F.R. 35.2005(b)(20), "Grants for Construction of Treatment Works, Definitions, Infiltration," U.S. EPA, as of July 1, 2001.
- (a) This federal regulation defines the concept of sewer infiltration.
- (b) 401 KAR 5:060, Section 12(3) specifies that storm water permit application for large and medium cities must address infiltration issues in accordance with this federal regulation.
- (c) This document is 1 page.

(2) 40 C.F.R. 110.6, "Discharge of Oil, Notice Requirements", U.S. EPA, as of July 1, 2001.
- (a) This federal regulation prescribes notice requirements for discharge of oil.
- (b) 401 KAR 5:060, Section 12(2)(a) uses this document to determine applicability of storm water permitting.
- (c) This document is 1 page.

(3) 40 C.F.R. 117.21, "Notice of Discharge of Reportable Quantity," U.S. EPA, July 1, 2001.
- (a) This federal regulation describes the notice of discharge of reportable quantities.
- (b) 401 KAR 5:060, Section 12(2)(a) uses this document to determine applicability of storm water permitting.
- (c) This document is 1 page.

(4) 40 C.F.R. 122, "National Pollutant Discharge Elimination System," U.S. EPA, as of July 1, 2001.
- (a) This federal regulation establishes the administrative procedures for the NPDES permit program.
- (b) 401 KAR 5:060, Section 12(3) uses this document to identify municipal storm water discharges that must seek KPDES authorization.
- (c) This document is 105 pages.

(5) 40 C.F.R. 123.35, "Regulation of Small Municipal Separate Storm Sewer Systems", U.S. EPA, as of July 1, 2001.
- (a) This federal regulation allows the cabinet to establish alternate storm water permit application deadlines for small municipal storm sewer discharges.
- (b) 401 KAR 5:060, Section 12(4) provides for storm water permit application deadlines.
- (c) This document is 3 pages.

(6) 40 C.F.R. Part 136, "Guidelines Establishing Test Procedures for the Analyses of Pollutants," U.S. EPA, as of July 1, 2001.
- (a) This federal regulation establishes appropriate test procedures for wastewater analyses.
- (b) 401 KAR 5:060, Section 2(7) specifies the use of analytical methods consistent with this document.

(c) This document is 325 pages.

(7) 40 C.F.R. Part 261, 'Identification and Listing of Hazardous Waste," U.S. EPA, as of July 1, 2001.

(a) This federal regulations provides for identification and listing of hazardous waste.

(b) 401 KAR 5:060, Section 5 refers to this document as part of the permit application process for POTW's.

(c) This document is 118 pages.

(8) 40 C.F.R. 262.34, "Hazardous Waste, Pre-transport Requirements, Accumulation Time," U.S. EPA, as of July 1, 2001.

(a) This federal regulation specifies the maximum accumulation time within hazardous waste requirements.

(b) 401 KAR 5:060 uses this document to establish permit applicability.

(c) This document is 4 pages.

(9) 40 C.F.R. 302.6, "Designation, Reportable Quantities and Notification, Notification Requirements", U.S. EPA, as of July 1, 2001.

(a) This federal regulation provides notification requirements for reportable quantities of materials that are released.

(b) 401 KAR 5:060 uses this document to establish permit applicability.

(c) This document is 2 pages.

(10) 40 C.F.R. Part 355, Appendix A, "The List of Extremely Hazardous Substances," U.S. EPA, as of July 1, 2001.

(a) This federal regulation contains a list of substances considered extremely hazardous.

(b) 401 KAR 5:060 refers to this document to establish permit application requirements.

(c) This document is 6 pages.

(11) 40 C.F.R. Chapter I, Subchapter N, part 401 et seq., "Federal Effluent Limitations and New Source Performance Standards," U.S. EPA, as of July 1, 2001.

(a) This federal regulations prescribes effluent limits for various industrial categories.

(b) 401 KAR 5:060 refers to this document to establish permit application requirements.

(c) This document is 1,449 pages.

The total number of pages adopted without change is 2,015.

SUMMARY OF DOCUMENTS INCORPORTED BY REFERENCE
IN 401 KAR 5:060

(1) KPDES Form 1, DEP 7032, Kentucky Division of Water, Revised February 2002
   (a) This document is the application form to be used by all KPDES permit applicants as a method of providing basic information to the permitting agency. This information includes facility, name, address, phone number, location, etc.
   (b) 401 KAR 5:060, Section 1(2)(b) specifies the use of this form.
   (c) This document, with instructions is 4 pages.

(2) KPDES Form A, DEP 7032A, Kentucky Division of Water, Revised February 2002.
   (a) This document is the application form to be used by all publicly owned treatment works (POTW) as a means of providing wastewater characterization to the permitting agency. This information includes wastewater volumes, discharge location, nature and concentration of pollutants, etc.
   (b) 401 KAR 5:060, Section 1(2)(b) specifies the use of this form.
   (c) This document is 21 pages.

(3) KPDES Form B, Kentucky Division of Water, Revised February 2002.

   (a) This document is the application form to be used by all concentrated animal feeding or concentrated aquatic animal production facilities required to have KPDES permits. This form provides the agency with information about the discharge including type and number of animals, location of discharge outfalls, etc.
   (b) 401 KAR 5:060, Section 1(2)(b) specifies the use of this form.
   (c) This document, with instructions is 5 pages.

(4) KPDES Form C, DEP 7032C, Kentucky Division of Water, Revised February 2002.

   (a) This document is the application form to be used by all industries with process wastewater discharges. This form provides the agency with information about the discharge including source of wastewater, treatment provided, location of outfalls, nature and concentration of pollutant, etc.
   (b) 401 KAR 5:060, Section 1(2)(b) specifies the use of this form.
   (c) This document, with instructions is 29 pages.

(5) KPDES Short Form C, DEP 7032SC, Kentucky Division of Water, Revised February 2002.
   (a) This document is the application form to be used by all facilities which discharge non-process wastewater such as cooling water, sanitary wastewater, etc. This form provides the agency with information about the discharges including outfall location, source of wastewater, wastewater flow rates, etc.
   (b) 401 KAR 5:060, Section 1(2)(b) specifies the use of this form.
   (c) This document, with instructions is 7 pages.

(6) KPDES Form F, Kentucky Division of Water, Revised February 2002.

(a) This document is the application form to be used by all storm water dischargers required to have KPDES permits. This form provides the agency with information about the discharges including outfall location, activities within the outfall drainage areas, nature and concentration of pollutants, etc.

(b) 401 KAR 5:060, Section 1(2)(b) specifies the use of this form.

(c) This document, with instructions is 15 pages.

The total number of pages incorporated by reference is 81 pages.